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# LAW OF RAILWAYS.

SEVENTH EDITION.

(*MARCH*, 1889.)

# A TREATISE

ON THE

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# RAILWAY COMPANIES,

AND

# RAILWAY INVESTMENTS;

BY SIR WILLIAM HODGES, KNT.,

LATE CHIEF JUSTICE OF H.M. SUPREME COURT, CAPE OF GOOD HOPE.

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VOL. II.

STATUTES, RULES, FORMS, AND STANDING ORDERS OF PARLIAMENT.

LONDON:

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# PREFACE TO VOLUME II.

The present volume contains the Statutes affecting Railway Companies up to the close of 1888, frequent references being provided to the pages at which the various sections and the decisions upon them are dealt with in the Second Volume. The Statutes are followed by the Rules and Orders made under them, with the exception of the Board of Trade Rules under section 24 of the Act of 1888, the volume having been delayed up to the present time in order that it might include the Orders of the Railway and Canal Commission, in connection with which the Editor would direct special attention to the "interim injunction" newly provided by Rule 34, and the provision for joint applications made by Rule 13.

The Board of Trade Rules under section 24 of the Act of 1888 having been printed, with annotations, in the Appendix to the First Volume, it has been deemed unnecessary to repeat them. It has been stated that some prolongation of the short period (eight weeks) allowed by Rule 11 for transmitting objections has been asked for from many quarters, and the Editor would venture to express the opinion that some prolongation would be reasonable.

The full reprint of the Standing Orders of both Houses of Parliament (of which a summary is given in the First Volume), and of the extracts from the Model Railway Bill, as most recently revised, which follows the Rules and

Orders, will, it is hoped, render the work more useful to practitioners before Parliamentary Committees. Particular attention is directed to the recent Standing Orders which allow interest to be paid on calls (L. S. O. 128; C. S. O. 167) and to the Standing Order of the House of Commons (C. S. O. 133A) which allows Chambers of Commerce or Agriculture, on petition against an extension bill, to be heard against rates and fares authorized by any existing Act of the company promoting it.

A collection of the rather important cases decided since the publication of the First Volume will be found after the Table of Contents, and it will be found that the High Court has issued a prohibition in the *Distington case.*

J. M. L.

THE TEMPLE,
*March* 18, 1889.

# TABLE OF CONTENTS.



## STATUTES.

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## RULES, ORDERS, REGULATIONS AND FORMS UNDER STATUTES.

## AUTHOR'S FORMS.

# ADDENDA TO VOL. I.

UP TO MARCH 11TH, 1889.

Page 98. In *Mutter* v. *Eastern and Midlands R. Co.*, 59 L. T. 117, it was held that the right under sect. 28 of C. C. Act, 1845, to inspect includes a right to take copies.

" 104. *Nanney* v. *Morgan* is now reported L. R. 37 Ch. D. 346; 57 L. J., Ch. 311; 36 W. R. 677; 58 L. T. 328.

" 104. As to invalidity of transfer of stock by one only of two holders, see *Barton* v *North Staffordshire R. Co.*, L. R. 38 Ch. D. 158, where one of two trustees forged the name of the other, who, with a new trustee, obtained an order for the replacement of the stock.

" 146. A railway company must, under sect. 46 of the Railways Clauses Act, 1845, repair the road over a bridge, as well as the bridge itself. *Mayor, &c., of Bury* v. *L. and Y. R. Co.*, L. R., 20 Q. B. D. 485; 57 L. J., Q. B. 280; 59 L. T. 193; 36 W. R. 192—C. A.

" 180, note (*f*). *London and Blackwall R. Co.* v. *Cross*, 31 Ch. D. 354; 55 L. J. Ch. 313, is distinguished in *Birmingham and District Land Co.* v. *L. & N. W. R. Co.*, L. R. 36 Ch. D. 350, aff. by C. A. 40 Ch. D. 268.

" 333. A conveyance of superfluous land provided that the purchase-money should not be payable until two years after the period limited by statute for sale. Upon re-sale by the purchaser, it was objected that the conveyance by the railway company was not an absolute sale within sect. 127 of the Lands Clauses Act, 1845; and it was held, on the authority of dicta in *Gomm's case*, that the title was not one which the Court should force upon a purchaser.

*In re Thackray and Young's Contract*, L. R. 40 Ch. D. 34; 58 L. J. Ch. 72, per Chitty, J.

" 362. The duty of a company whose railway crosses a public road at a level is to erect and maintain such gates as will fence in the railway and keep from off it cattle and horses passing along the road; so that a company which, in addition to broad gates for carriages, horses, and cattle, erected narrow gates for foot passengers insufficient to exclude horses and cattle, was held liable to the owner of horses straying on the road and breaking through them.

*Charman* v. *S. E. R. Co.*, L. R. 21 Q. B. D. 524; 57 L. J. Q. B. 596—C. A.

" 486. A prohibition issued in the *Distington case*, on March 4th, 1889, on the ground that the Railway Commissioners had misconceived the meaning of sect. 2 of the Railway and Canal Traffic Act, 1854, in holding that it applied to rates irrespectively of a preference.

Page 487. The 2nd section of the Railway and Canal Traffic Act, 1854, is not infringed by a railway company which owns two separate docks twenty miles apart and a line of railway connected with one of such docks (and thereby constituted a railway company within the meaning of the Railway Companies Act, 1867) charging preferential dock dues to the prejudice of one shipowner using the docks not connected with the line of railway, in favour of other shipowners.

*East and West India Dock Co.* v. *Shaw, Savill and Albion Co.*, L. R. 39 Ch. D. 524.

„ 519. A person crossing a railway, at a place where there is no authorised level crossing, in assertion of a right of way which existed before the construction of the railway, cannot be convicted by justices for trespassing on the railway, inasmuch as he sets up a *bonâ fide* claim of right, which ousts the jurisdiction of the justices.

Nor is the right of way extinguished by the construction of the railway.

*Cole* v. *Miles*, 57 L. J. M. C. 132.

„ 522. Where an agreement between two railway companies contains a provision that all matters in dispute between them shall be referred to arbitration, the true operation of sects. 4 and 26 of the Railway Companies Arbitration Act, 1859, is to make it obligatory on the courts, if the right is asserted by either company at the proper time to refer the matter to arbitration under the provision in the agreement; but it does not deprive the Court of jurisdiction to try the case where neither party asserts the right to have it referred to arbitration.

*L. C. & D. R.* v. *S. E. R. Co.*, L. R. 40 Ch. D. 100; 58 L. J. Ch. 75—C. A.

„ 542. The 23rd section of the Railway Companies Act, 1867, by which mortgage debts of a railway company have priority, does not entitle the mortgagees to payment in priority out of proceeds of superfluous lands sold on application of judgment creditors.

*Hull* v. *Barnsley, &c., R. Co., In re*, 40 Ch. D. 119—C.A.



THE

# LAW RELATING TO RAILWAYS.

## VOL. II.

## STATUTES, FORMS, AND STANDING ORDERS.

**NOTE.—Repealed Enactments are indicated by Italics. In general, the substance only of such Enactments is printed. The marginal notes have been revised throughout** (*a*).

THE STATUTES RELATING TO RAILWAYS.

### 11 GEO. IV. & 1 WILL. IV. CAP. 68.

*An Act for the more effectual Protection of Mail Contractors, Stage Coach Proprietors and other Common Carriers for Hire, against the Loss of or Injury to Parcels or Packages delivered to them for Conveyance or Custody, the Value of which shall not be declared to them by the Owners thereof* (*b*).

[23rd July, 1830.

### 7 WILL. IV. & 1 VICT. CAP. 83.

*An Act to compel Clerks of the Peace for Counties, and other Persons, to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.* [17th July, 1837.

WHEREAS the Houses of Parliament are in the habit of requiring that, previous to the introduction of any bill into Parliament for making certain bridges, turnpike-roads, cuts, canals, reservoirs, aqueducts, waterworks,

(*a*) The marginal note to a section of a statute in the copy printed by the Queen's printers forms no part of the statute itself, and is not binding as an explanation or construction of the sections; see *Attorney-General* v. *G. E. R. Co.*, L. R., 11 Ch. D. at pp. 460, 461; *Sutton* v. *Sutton*, L. R., 22 Ch. D. 573.

(*b*) See this act, commonly called the "Carriers Act," ante, vol. I., Chap. xvi. Sect. 3.

navigations, tunnels, archways, railways, piers, ports, harbours, ferr docks and other works, to be made under the authority of Parliam certain maps or plans and sections, and books and writings, or extracts copies of or from certain maps, plans or sections, books and writings, shall deposited in the office of the clerk of the peace for every county, riding division in England or Ireland, or in the office of the sheriff clerk of ev county in Scotland, in which such work is proposed to be made, and a with the parish clerk of every parish in England, the schoolmaster of ev parish of Scotland, or in royal burghs with the town clerk, and the p master of the post-town in or nearest to every parish in Ireland, in wh such work is intended to be made, and with other persons; and whereas it expedient that such maps, plans, sections, books, writings, and copies extracts of and from the same, should be received by the said clerks of t peace, sheriff clerks, parish clerks, schoolmasters, town clerks, postmaster and other persons, and should remain in their custody for the purpose hereinafter mentioned; be it therefore enacted, That whenever either the houses of Parliament shall by its standing orders already made, or here after to be made, require that any such maps, plans, sections, books o writings, or extracts or copies of the same, or any of them, shall be deposite as aforesaid, such maps, plans, sections, books, writings, copies and extrac shall be received by and shall remain with the clerks of the peace, sheri clerks, parish clerks, schoolmasters, town clerks, postmasters, and oth persons with whom the same shall be directed by such standing orders t be deposited, and they are hereby respectively directed to receive and retain the custody of all such documents and writings so directed to deposited with them respectively, in the manner and for the purposes a under the rules and regulations concerning the same respectively, direct by such standing orders, and shall make such memorials and endorsemen on and give such acknowledgments and receipts in respect of the sa respectively, as shall be thereby directed.

[See vol. I chap. 1 s 2]

Clerks of the peace, &c., to receive maps, plans, &c., and retain them for the purposes directed by the standing orders of the houses of Parliament.

Clerks of the peace, &c., to permit such documents to be inspected or copied by persons interested.

**2.** That all persons interested shall have liberty to, and the said clerks the peace, sheriff clerks, parish clerks, schoolmasters, town clerks, and po masters, and every of them are, and is hereby required, at all reasonal hours of the day, to permit all persons interested to inspect during reasonable time, and make extracts from or copies of the said maps, pla sections, books, writings, extracts and copies of or from the same, deposited with them respectively, on payment by each person to the cle of the peace, sheriff clerk, clerk of the parish, schoolmaster, town clerk postmaster, having the custody of any such map, plan, section, boo writing, extract or copy, one shilling for every such inspection, and t further sum of one shilling for every hour during which such inspectio shall continue after the first hour, and after the rate of sixpence for ever one hundred words copied therefrom.

Clerks of the peace, &c., for omission to comply with act, liable to penalty of 5*l.*, to be recovered in a summary way.

**3.** That in case any clerk of the peace, sheriff clerk, parish clerk, school master, town clerk, postmaster or other person, shall in any matter or thing refuse or neglect to comply with any of the provisions hereinbefore contained, every clerk of the peace, sheriff clerk, parish clerk, schoolmaster town clerk, postmaster or other person, shall for every such offence forfeit and pay any sum not exceeding the sum of five pounds; and every such penalty shall, upon proof of the offence before any justice of the peace for the county within which such offence shall be committed, or by the confession of the party offending, or by the oath of any credible witness, be levied and recovered, together with the costs of the proceedings for the recovery thereof, by distress and sale of the goods and effects of the party offending, by warrant under the hand of such justice, which warrant such justice is hereby empowered to grant, and shall be paid to the person or

persons making such complaint; and it shall be lawful for any such justice of the peace to whom any complaint shall be made of any offence committed against this act, to summon the party complained of before him, and on such summons to hear and determine the matter of such complaint in a summary way, and on proof of the offence to convict the offender, and to adjudge him to pay the penalty or forfeiture incurred, and to proceed to recover the same, although no information in writing or in print shall have been exhibited or taken by or before such justice; and all such proceedings by summons without information shall be as good, valid and effectual to all intents and purposes as if an information in writing had been exhibited.

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## 1 & 2 VICT. CAP. 80.

*An Act for the Payment of Constables for keeping the Peace near Public Works.* [10th August, 1838.

Whereas great mischiefs have arisen by the outrageous and unlawful behaviour of labourers and others employed on railroads, canals, and other public works, by reason whereof the appointment of special constables is often necessary for keeping the peace, and for the protection of the inhabitants and security of the property in the neighbourhood of such public works, whereby great expenses have been cast upon the public rates of counties and other districts chargeable with such expenses; be it therefore enacted, That after the passing of this act, whenever any special constables shall be appointed under the authority of an act passed in the second year of the reign of his late Majesty, intituled "An Act for amending the Laws relative to the Appointment of Special Constables, and for the better Preservation of the Peace (*c*), or under the authority of an act passed in the sixth year of the reign of his late Majesty, intituled "An Act for enlarging the Powers of Magistrates in the Appointment of Special Constables (*d*), and it shall be made to appear to any two or more justices of the peace of any county, riding, or division having a separate commission of the peace, or of any liberty, franchise, city, town, or borough, in England or Wales, on the oath of three or more credible witnesses, that the appointment of such special constables has been occasioned by the behaviour, or by reasonable apprehension of the behaviour, of the persons employed upon any railway, canal, or other public work made or carried on under the authority of Parliament within the district or division for which such justices usually act, it shall be lawful for such justices as aforesaid, at any time not exceeding one calendar month next after such appointment, to make orders from time to time upon the treasurer or other officer who shall have the control or custody of the funds of any company making or carrying on such railroad, canal, or other public work, for the payment of such reasonable allowances for their trouble, loss of time and expenses to such special constables who shall have so served or be then serving as to the said justices shall seem proper; and a copy of every such order shall be sent by the justices to one of her Majesty's principal Secretaries of State, and such order, if allowed by the Secretary of State, shall be binding on such com-

Whenever the appointment of special constables has been occasioned by the behaviour of persons employed upon public works, the expenses thereof shall be paid by the companies carrying on such works.

Order of justices upon treasurer of company.

(*c*) 1 & 2 W. 4, c. 41, Chitty's Statutes, vol. IV. tit. "*Police.*"
(*d*) 5 & 6 W. 4, c. 43, ib.

pany, and on every such treasurer and officer thereof: provided always, that nothing herein contained shall empower any such justices to order any allowance for any such special constables at the rate of more than five shillings daily to be paid to each special constable employed for the purposes aforesaid.

Secretary of State may reduce excessive orders.

2. And be it enacted, that if it shall appear to the Secretary of State that there was no need for the appointment of such special constables, or that a greater number of special constables was appointed than was needed by reason of the behaviour, or reasonable apprehension of the behaviour, of the persons employed on such railroad, canal, or other public work as aforesaid, the Secretary of State shall have power to disallow any such order, or to reduce the amount ordered to be paid by any such order, in such manner as to him shall seem just according to the circumstances of each case; and in such case the order shall be of no force, or shall be of force for such reduced amount only, as the case may be; and the whole of such expenses in case the whole shall be disallowed, or so much thereof as shall exceed such reduced amount if a part shall be allowed, shall be defrayed out of the public rates of such county, riding, or division, liberty, franchise, city, town, or borough, as if this act had not been made.

Amount ordered and allowed may be recovered by distress.

3. And be it enacted, that in all cases where such treasurer or other officer as aforesaid shall refuse or neglect, during three weeks next after demand thereof, to pay such sum of money as shall have been ordered by such justices, and allowed by the Secretary of State as aforesaid, it shall be lawful for such justices to cause the same to be levied by distress upon the goods and chattels belonging to such company.

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## 1 & 2 VICT. CAP. 98.

*An Act to provide for the Conveyance of the Mails by Railways.*
[14th August, 1838.

Postmaster-General may require railway companies to convey the mails.
[See vol. I. ch. XII. s. 10.]

Whereas it is expedient that provision should be made by law for the conveyance of the mails by railways at a reasonable rate of charge to the public (e): be it enacted, That in all cases of railways already made or in progress or to be hereafter made within the United Kingdom, by which passengers or goods shall be conveyed in or upon carriages drawn or impelled by the power of steam, or by any locomotive or stationary engines, or animal or other power whatever, it shall be lawful for the Postmaster-General, by notice in writing under *his* (f) hand delivered to the company of proprietors of any such railway, to require that the mails or post letter-bags shall from and after the day to be named in any such notice (being not less than twenty-eight days from the delivery thereof) be conveyed and forwarded by such company on their railway, either by the ordinary trains of carriages or by special (g) trains, as need may be, at such hours or times in the day or night as the Postmaster-General shall direct, together with (h) the guards appointed and employed by the Postmaster-General in charge thereof, and any other officers of the Post Office; and thereupon the said

(e) See also 7 & 8 Vict. c. 85, s. 11; 10 & 11 Vict. c. 85, s. 16; 31 & 32 Vict. c. 119, ss. 36, 37; and 36 & 37 Vict. c. 48, ss. 18, 19, 20, post.

(f) But see 31 & 32 Vict. c. 119, s. 37, post, which renders a secretary's signature sufficient.

(g) See also ibid. s. 36, post.

(h) Or without a guard, 10 & 11 Vict. c. 85, s. 16, post.

company shall, from and after the day to be named in such notice, at their own costs, provide sufficient carriages and engines on such railways for the conveyance of such mails and post letter-bags to the satisfaction of the Postmaster-General, and receive, take up, carry and convey, by such ordinary or special trains of carriages, or otherwise, as need may be, all such mails or post letter-bags, as shall for that purpose be tendered to them, or any of their officers, servants or agents, by any officer of the Post Office, and also receive, take up, carry and convey, in and upon the carriages carrying such mails or post letter-bags, the guards in charge thereof, and any other officers of the Post Office, and shall receive, take up, deliver and leave such mails or post letter-bags, guards and officers at such places in the line of such railway, on such days, at such hours or times in the day or night, and subject to all such reasonable regulations and restrictions as to speed of travelling, places, times and duration of stoppages, and times of arrival, as the Postmaster-General shall in that behalf from time to time order or direct: provided always, that the rate of speed to be required shall in no case exceed the maximum rate of speed prescribed by the directors of such railway or railways for the conveyance of passengers by their first class trains: but that no alteration in the rate of speed of any train by which the mails shall be conveyed shall be made until six calendar months' previous notice shall be given to the Postmaster-General of any such intended alteration.

If required, carriage to be applied exclusively to such conveyance.

**2.** That it shall be lawful for the Postmaster-General (if he shall see fit) to require that the whole of the inside of any carriage used on any railway for the conveyance of mails or post letter-bags shall be exclusively appropriated for the purpose of carrying the mails.

Railway company, if required, to provide separate carriage for sorting letters.

**3.** That the company of proprietors of any such railway shall, on being required so to do by the Postmaster-General, provide and furnish (in addition to the carriages aforesaid) a separate carriage or separate carriages, fitted up as the Postmaster-General, or such person as he shall nominate in that behalf, shall direct, for the purpose of sorting letters therein, and shall forward the same carriage or carriages by their railway, at such hours or times, and subject to all such reasonable regulations as aforesaid, as the Postmaster-General shall in that behalf order or direct; and such company of proprietors shall receive, take up, carry and convey in any such last-mentioned carriage or carriages, all such post letter-bags and officers of the Post Office as the Postmaster-General shall reasonably require, and shall deliver and leave any post letter-bags and officers of the Post Office at such places on the line of the railway as the Postmaster-General shall in that behalf from time to time reasonably order and direct.

Postmaster-General may direct mails to be carried on railway in mail coaches in lieu of company's carriages.

**4.** That, in case the Postmaster-General shall at any time be desirous of sending by any such railway any of her Majesty's mail coaches or mail carts, with the mails or post letter-bags and guards thereof, and carriages for sorting letters, with any officers of the Post Office therein, instead of sending the said mails or post letter-bags, guards and officers of the Post Office by carriages to be provided by such railway company as aforesaid, then and in any such case such railway company shall, at the request of the Postmaster-General, signified by such notice as aforesaid, cause such mail coaches or mail carts, with the mails or post letter-bags and guards thereof, and carriages for sorting letters, with any officers of the Post Office therein, to be conveyed by the usual or proper trucks or frames on their said railway, subject to such regulations and restrictions of the Postmaster-General as hereinbefore mentioned.

Railway companies to be subject to directions of Post Office respecting conveyance of mails.

**5.** That for the greater security of the mails or post letter-bags so to be carried or conveyed by railways, the company of proprietors of such respective railways along which such mails or post letter-bags, mail coaches or

carts and carriages for sorting letters shall be so required by the Postmaster-General to be conveyed, and their respective officers, servants and agents, shall obey, observe and perform all such reasonable regulations respecting the conveyance, delivering and leaving of such mails and post letter-bags, guards and officers of the Post-Office, mail coaches or carts and carriages, on any such railways, or on the line thereof, as the Postmaster-General, or such officer of the Post Office as he shall nominate in that behalf, shall in his discretion from time to time give or make: provided always, that it shall not be lawful for any officer or servant of the Post Office to interfere with or give orders to the engineer or other person having the charge of any engine upon any railway along which mails or post letter-bags shall be conveyed; but if any cause of complaint shall arise, the same shall be stated to the conductor or other officer of the railway company having the charge of the train, or to the chief officer at any station upon the railway; and in case of any default or neglect on the part of any officers or servants of the railway company to comply with any of the regulations of the Postmaster-General or other officer of the Post Office so to be nominated as aforesaid, the railway company shall be wholly responsible for the same.

Remuneration to railway companies for conveyance of mails.

6. That every company of proprietors of any railway along which such mails or post letter-bags, mail coaches, carts or carriages shall be so required by the Postmaster-General to be conveyed, shall be entitled to such reasonable remuneration to be paid by the Postmaster-General to any such company of proprietors for the conveyance of such mails, post letter-bags, mail guards, and other officers of the Post Office, mail coaches, carts and carriages in manner required by such Postmaster-General, or by such officer of the Post Office as he shall in that behalf nominate as aforesaid, as shall (either prior to or after the commencement of such service) be fixed and agreed on between the Postmaster-General and such company of proprietors, or in case of difference of opinion between them, then as shall be determined by arbitration as hereinafter provided, but so that the services which may be required by the Postmaster-General, or by such officer of the Post Office as he in that behalf shall nominate as aforesaid, to be performed by any such company of proprietors, be not suspended, postponed or deferred by reason of such remuneration not having been then fixed or agreed on between the said Postmaster-General and such company of proprietors, or by reason of the award on any reference to arbitration to determine the remuneration not having been then made.

Agreements between Postmaster-General and railway companies as to amount of remuneration, &c., may be altered.

7. That, notwithstanding any agreement entered into between the Postmaster-General and any such company, or any award to be made on any such reference as aforesaid, fixing the amount of remuneration to be paid to such company for any services to be rendered by them as aforesaid, it shall be lawful and competent to and for the Postmaster-General, by notice in writing, to require, from and after the day to be named in any such notice, not being less than twenty-eight days from the delivery thereof, any addition to be made to the services in respect of which such agreement shall be entered into or award made; and in any such case, and also in case of a discontinuance of any part of such services as hereinafter provided, a fresh agreement shall be entered into between the Postmaster-General and such company, regulating the future amount of remuneration to be paid by the Postmaster-General to such company for such increased or diminished services, as the case may be; or if the parties cannot agree on such amount, the same shall be referred to arbitration in like manner as hereinbefore is mentioned and hereinafter provided as to any original agreement; and such arbitrators shall have power to award any compensation they may consider reasonable to be paid to any railway company for

any loss that may have been occasioned to them by the discontinuance or alteration of the services previously agreed to be performed by them by any train or carriage specially required by the Postmaster-General to be forwarded for the conveyance of the mails, but so that nevertheless such increased or diminished services shall not be suspended, postponed or deferred by reason of the amount of such increased or diminished remuneration not having been then fixed or agreed on between the Postmaster-General and such company of proprietors, or by reason of the award on any reference to arbitration to determine the amount of such increased or diminished remuneration not having been then made.

Postmaster-General may terminate services of railway companies on notice;

**8.** That it shall be lawful for the Postmaster-General, and he is hereby authorised, at any time during the continuance of the services of any company of proprietors as aforesaid, to give to such company, by writing under *his* (*i*) hand, six calendar months' previous notice that such services, or any part thereof, shall cease and determine; and thereupon, at the expiration of such six calendar months' notice, the said services, or such part thereof as aforesaid, and the remuneration for the same, shall cease and determine.

or without notice, subject to payment of compensation.

**9.** That it shall be lawful for the Postmaster-General at any time during the continuance of the services of any company of proprietors as aforesaid, by notice in writing under *his* (*i*) hand, absolutely to determine and put an end to the same or any part thereof, without giving any previous notice, or on giving any notice less than six calendar months in respect thereof, and thereupon the said services shall cease and determine accordingly: provided, nevertheless, that in case the Postmaster-General shall, without giving six calendar months' notice as aforesaid, at any time determine the services to be required by the Postmaster-General of any company of proprietors, or any part of such services, without any cause whatever, or for any cause other than the default by such company of proprietors in the performance of any of the services to be required of them by the Postmaster-General, or the breach by such company of proprietors of any of their engagements with the Postmaster-General, then and in any such case the Postmaster-General shall make to such company a full and fair compensation for all loss thereby occasioned; the amount whereof, in case the parties differ about the same, shall be ascertained by arbitration as hereinafter mentioned.

Royal arms to be painted on engines or carriages provided for Post Office.

**10.** That on all carriages to be provided for the service of the Post Office on any such railway there shall on the outside be painted the royal arms, in lieu of the name of the owner and of the number of the carriage, and of all other requisites, if any, prescribed by law in respect of carriages passing on any such railway; but the want of such royal arms on any carriage belonging to or used by the Post Office shall not form an objection to such carriage running on any railway, anything to the contrary notwithstanding.

Bye-laws of companies not to be repugnant to act.

**11.** That it shall not be competent or lawful to or for the company of proprietors of any railway to make any bye-laws, orders, rules or regulations which shall militate against or be contrary or repugnant to any of the enactments herein contained; and that if any company of proprietors shall make or shall have made any such bye-laws, orders, rules, or regulations, either prior or subsequently to the Postmaster-General signifying to the said company his intention that the mails or post letter-bags, mail coaches, carts, or carriages shall be conveyed by such railway, all such bye-laws, orders, rules and regulations, so far as they shall militate against or be contrary or repugnant to any of the enactments herein contained, shall

(*i*) Secretary's signature made sufficient by 31 & 32 Vict. c. 119, s. 37, post.

be and be deemed absolutely void and of no effect, in like manner as if such bye-laws, orders, rules or regulations had never been made or passed, anything to the contrary in anywise notwithstanding.

Penalty for refusing or neglecting to convey mails.

12. That if the company of proprietors of any railway, or any of their respective officers, servants, or agents, shall refuse or neglect to carry or convey any mails or post letter-bags, when tendered to them for such purpose by the Postmaster-General or any officer of the Post Office, or shall refuse to carry on their railway any mail coaches, carts, or carriages as hereinbefore provided, when so required by the Postmaster-General, or shall refuse or neglect to receive, take up, deliver and leave any such mails or post letter-bags, mail guards or other officers of the Post Office, mail coaches, carts, or carriages, at such places, at such times, on such days, and subject to such regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, as the Postmaster-General shall from time to time reasonably direct or appoint, as hereinbefore provided, or shall not obey, observe and perform all such regulations respecting the conveyance of the mails and post letter-bags, mail coaches, carts and carriages, on any such railways as the Postmaster-General, or such officer of the Post Office as he shall nominate in that behalf, shall make for the purposes aforesaid, then and in any such case the company of proprietors who, or whose officer, servant, or agent, shall so offend in the premises, shall for every such offence forfeit and pay a sum not exceeding twenty pounds; provided, nevertheless, that the payment of or liability to such penalty shall not in any manner lessen or affect the liability of any such company under any bond which may have been given by them under the provisions hereinafter contained.

Postmaster-General may require railway companies to give security by bond.

13. That it shall be lawful for the Postmaster-General, if he shall so think fit, to require the company of proprietors of any railway already made, or in progress, or to be hereafter made within the United Kingdom, to give security by bond to her Majesty, her heirs and successors, conditioned to be void if such company shall from time to time carry or convey, or cause to be carried or conveyed, all such mails or post letter-bags, mail guards and other officers of the Post Office, mail coaches, carts, and carriages, in manner hereinbefore mentioned, when thereunto required by the Postmaster-General or any officer of the Post Office duly authorized for that purpose, and shall receive, take up, deliver, and leave all such mails or post letter-bags, guards, and officers, mail coaches, carts, and carriages, at such places, at such times, on such days, and subject to such regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, as hereinbefore mentioned, and shall obey, observe and perform all such regulations respecting the same as the Postmaster-General shall reasonably make, and shall well and truly do and perform, and cause to be done and performed, all such other acts, matters and things as by this act are required or directed to be done or performed by or on the part or behalf of such company, their officers, servants and agents; and every such bond shall be taken in such sum and in such form as the Postmaster-General shall think proper; and every such security shall be renewed from time to time, whenever and so often as such bond shall be forfeited, and also whenever and so often as the Postmaster-General shall in his discretion require the same to be renewed; and if any company of proprietors of any such railway as aforesaid shall when so required as aforesaid, refuse or neglect, for the space of one calendar month next after the delivery of any notice for such purpose to them given by or from the Postmaster-General, to execute to her Majesty, her heirs and successors, such bond to the effect and in manner aforesaid, or shall at any time refuse or neglect to renew such bond, whenever and so often as the same shall, by or in pursuance of

Renewal.

this act, be required to be renewed, such company of proprietors shall forfeit one hundred pounds for every day during the period for which there shall be any refusal, neglect, or default to give or renew such security as aforesaid, after the expiration of the said one calendar month.

**14.** Provided always, That in all cases in which any railway, or part of a railway, may previous to the passing of this act have been demised or let by the company of proprietors thereof, the body corporate or company, or other persons to whom the same shall have been so demised or let, their successors, executors, administrators, or assigns, shall during the continuance of such lease be liable to all the provisions of this act, for or in respect of such railway or part of a railway, in lieu of such company of proprietors; but so that such lessees (not being a body corporate or company), their executors, administrators or assigns, shall not be required in respect of any such railway or part of a railway, to give security under the foregoing enactment to any amount in any one bond exceeding the sum of one thousand pounds, and shall not in any one year be liable in damages to be recovered upon any bonds which they may have given to any amount exceeding the sum of one thousand pounds and costs of suit.

Lessees of railway, not being a body corporate or company, not to be required to give security by bond above 1,000*l*.

**15** That all notices under the provisions of this act, by or on behalf of the Postmaster-General to any company of proprietors of any railway as aforesaid, shall be considered as duly served on any company of proprietors in case the same shall be given or delivered to any one or more of the directors of such company, or to the secretary or clerk of such company, or be left at any station belonging to such company.

Service of notices.

**16.** That in all cases in which the Postmaster-General and any company of proprietors of any railway shall not be able to agree on the amount of remuneration or compensation to be paid by the Postmaster-General to such company of proprietors for any services performed, or to be performed by them as hereinbefore mentioned, the same shall be referred to the award of two persons, one to be named by the Postmaster-General and the other by such company; and if such two persons cannot agree on the amount of such remuneration or compensation, then to the umpirage of some third person, to be appointed by such two first-named persons previously to their entering upon the inquiry; and the said award or umpirage, as the case may be, shall be binding and conclusive on the said parties, and their respective successors and assigns.

Arbitration as to amount of compensation.

**17.** That after any contract entered into or award made under the authority of this act shall have continued in operation for a period of three years, it shall be competent for any railway company who may consider themselves aggrieved by the terms of remuneration fixed by such contract or award, by notice under their common seal, to require that it shall be referred to arbitrators to determine whether any and what alteration ought to be made therein; and thereupon such arbitrators or umpire, to be appointed as hereinbefore mentioned, shall proceed to inquire into the circumstances and make their award therein, as in the case of an original agreement: provided always, that the services performed by such railway company for the Post Office shall in nowise be interrupted or impeded thereby.

Arbitration as to alteration of terms.

**18.** That in all references to be made under the authority of this act, the Postmaster-General, or the railway company, as the case may be, shall nominate his or their arbitrator within fourteen days after notice from the other party, or in default, it shall be lawful for the arbitrator appointed by the party giving notice to name the other arbitrator; and such arbitrators shall proceed forthwith in the reference, and make their award therein within twenty-eight days after their appointment, or otherwise the matter shall be left to be determined by the umpire; and if such umpire shall

Nomination of arbitrators to be within a limited time after application for references made.

refuse or neglect to proceed and make his award for the space of twenty-eight days after the matter shall have been referred to him, then a new umpire shall be appointed by the two first-named arbitrators, who shall in like manner proceed and make his award within twenty-eight days, or in default be superseded, and so toties quoties.

Construction of terms. "Company," &c.

**19.** That whenever the term "company of proprietors," or "railway company." or "company," is used in this act, the same shall extend to and be construed to include the proprietors for the time being of any railway, whether a body corporate or individuals, and also (during the continuance of any demise or lease as aforesaid) any person, whether a body corporate, or company, or individuals, to whom any railway or part of a railway may, previous to the passing of this act, have been demised or let, and their successors, executors, administrators and assigns, unless the subject or context be otherwise repugnant to such construction; and that the provisions of this act shall be construed according to the respective interpretations of the terms and expressions contained in an act passed in the first year of the reign of her present Majesty, intituled "An Act for consolidating the Laws relative to Offences against the Post Office of the United Kingdom, and for regulating the Judicial Administration of the Post Office Laws, and for explaining certain Terms and Expressions employed in those Laws," so far as those interpretations are not repugnant to the subject or inconsistent with the context of such provisions; and that this present act shall be deemed and construed to be a Post Office act, within the intent and meaning of the said last-mentioned act; and the pecuniary penalties hereby imposed shall be recovered and recoverable in the manner and form therein particularly mentioned and expressed with reference to the pecuniary penalties imposed by the Post Office acts: provided, nevertheless, that any justice of the peace having jurisdiction for any county through which any railway shall pass in respect of which any penalty or forfeiture under this act shall have been incurred, shall and may hear and determine any offence against this act which may subject any company to a pecuniary penalty not exceeding twenty pounds; and a summons issued under the Post Office acts by any such justice against any railway company for the recovery of any such penalty shall be deemed to be sufficiently served in case either the summons or a copy thereof be delivered to any officer, servant, or agent of such company, or be left at any station belonging to such company.

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## 2 & 3 VICT. CAP. 45.

*An Act to amend an Act of the Fifth and Sixth Years of the Reign of His late Majesty King William the Fourth, relating to Highways (j).* [17th August, 1839.

[See vol. I. ch. IX. sect. 4.]

Whereas by an act passed in the session of Parliament holden in the fifth and sixth years of the reign of his late Majesty King William the Fourth, intituled "An Act to consolidate and amend the Laws relating to Highways in that part of Great Britain called England," it is amongst other things by the said act enacted, That whenever a railroad shall cross any

(j) This statute was made applicable to railway companies incorporated by certificate of the Board of Trade under "The Railways Construction Facilities Act, 1864," by that act, 27 & 28 Vict. c. 121. post.

highway for carts or carriages, the proprietors of the said railroad shall make and maintain good and sufficient gates at each of the said crossings, and shall employ good and proper persons to attend to the opening and shutting of such gates, so that the persons, carts or carriages passing along such road shall not be exposed to any danger or damage by the passing of any carriages or engines along the said railroad; and any complaint for any neglect in respect of the said gates shall be made within one month after the said neglect to one justice, who may summon the party so complained against to appear before the justices at their next special sessions for the highways, who shall hear and decide upon the said complaint, and the proprietor so offending shall forfeit any sum not exceeding five pounds; And whereas it is also by the said act further enacted, that nothing in this act contained shall apply to any turnpike roads, except where expressly mentioned, or to any roads, bridges, carriageways, cartways, horseways, bridleways, footways, causeways, churchyards or pavements, which now are or may hereafter be paved, repaired, or cleansed, broken up, or diverted, under or by virtue of the provisions of any local or personal act or acts of Parliament: And whereas it is deemed expedient to amend the said provisions in the said act, and to extend the same to turnpike roads in England: Be it therefore enacted, That, wherever a railroad crosses or shall hereafter cross any turnpike road or any highway or statute labour road for carts or carriages in Great Britain, the proprietors or directors of the company of proprietors of the said railroad shall make and maintain good and sufficient gates across each end of such turnpike or other road as aforesaid at each of the said crossings, and shall employ good and proper persons to open and shut such gates, so that the persons, carts, or carriages, passing along such turnpike or highway shall not be exposed to any danger or damage by the passing of any carriages or engines along the said railroad (*k*); and any complaint for any neglect in respect of the said gates shall be made within one calendar month after the said neglect to any justice of the peace, or, if in Scotland, to the sheriff of the county, who may summon the party so complained against to appear before them or him at the next petty session or court to be holden for the district or division within which such gates are situate, who shall hear and decide upon the said complaint; and the proprietor or director so offending shall for each and every day of such neglect forfeit any sum not exceeding five pounds, together with such costs as to the justices or sheriff depute aforesaid before whom the conviction shall take place shall seem fit.

Sect. 113.

Proprietors of railroad to maintain gates where any railroad crosses the highways, &c.

Penalty 5*l*. for each day's neglect.

2. That the penalties by this act imposed, and the costs to be allowed and ordered by the authority of this act, shall, in England, be recovered and applied in the same manner as any penalties and costs under the said act, and, in Scotland, shall be recovered and applied to the maintenance of the statute labour roads within the district where the offence is committed.

Recovery of penalties.

(*k*) See 5 & 6 Vict. c. 55, s. 9, post, p. 16; 8 & 9 Vict. c. 20, s. 17; 26 & 27 Vict. c. 92, s. 5, post.

## 3 & 4 VICT. CAP. 97 (RAILWAY REGULATION ACT, 1840) (*l*).

*An Act for Regulating Railways* [10th August, 1840.

Whereas it is expedient for the safety of the public to provide for the due supervision of railways.

**1, 2.** [*No railway to be opened without one month's notice to the "Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations."—Penalty 20l. a day:* Repealed, 5 & 6 Vict. c. 55, s. 3. See now ss. 4—6 of that act, post.]

Table of tolls may be required by Board of Trade.

**3.** And be it enacted, That the Lords of the said committee may order and direct every railway company to make up and deliver to them *returns, according to a form to be provided by the Lords of the said committee, of the aggregate traffic in passengers, according to the several classes, and of the aggregate traffic in cattle and goods respectively, on the said railway, as well as of all accidents which shall have occurred thereon attended with personal injury, and also* (*m*) a table of all tolls, rates and charges from time to time levied on each class of passengers, and on cattle and goods, conveyed on the said railway; and, if the returns herein specified shall not be delivered within thirty days after the same shall have been required, every such company shall forfeit to her Majesty the sum of twenty pounds for every day during which the said company shall wilfully neglect to deliver the same; and every such penalty may be recovered in any of her Majesty's courts of record: provided always, that such returns shall be required in like manner and at the same time, from all the said companies, unless the Lords of the said committee shall specially exempt any of the said companies, and shall enter the grounds of such exemption in the minutes of their proceedings.

Penalty for making false returns.

**4.** And be it enacted, That every officer of any company who shall wilfully make any false return to the Lords of the said committee shall be deemed guilty of a misdemeanor.

**5, 6.** [*Appointment of inspectors: Directors, &c., not eligible.—Penalty for obstructing inspector* (*n*): Repealed 34 & 35 Vict. c. 71, s. 17, and sched. 2. See now ss. 3, 4 and 7 of that act, post.]

Copies of existing bye-laws to be laid before the Board of Trade;

otherwise to be void.

**7.** And whereas many railway companies are or may hereafter be empowered by act of Parliament to make bye-laws, orders, rules or regulations, and to impose penalties for the enforcement thereof, upon persons other than the servants of the said companies, and it is expedient that such powers should be under proper control, be it enacted, That true copies of all such bye-laws, orders, rules and regulations, made under any such powers by every such company before the passing of this act, certified in such manner as the Lords of the said committee shall from time to time direct, shall, within two calendar months after the passing of this act, be laid before the Lords of the said committee; and that every such bye-law, order, rule or regulation, not so laid before the Lords of the said committee within the aforesaid period, shall, from and after that period, cease to have any force or effect, saving in so far as any penalty may have been then already incurred under the same.

No bye-laws to be valid till two months after being laid before Board of Trade.

**8.** That no such bye-law, order, rule or regulation made under any such power, and which shall not be in force at the time of the passing of this act, and no order, rule or regulation annulling any such existing bye-law, rule, order or regulation which shall be made after the passing of this act, shall have any force or effect until two calendar months after a true copy of

(*l*) See 36 & 37 Vict. c. 76, post.

(*m*) Repealed by 34 & 35 Vict. c. 78, s. 17, and sched. 2, post.

(*n*) As to ineligibility of directors, &c., repealed by 7 & 8 Vict. c. 85, s. 15.

such bye-law, order, rule or regulation, certified as aforesaid, shall have been laid before the Lords of the said committee, unless the Lords of the said committee shall, before such period, signify their approbation thereof.

**9.** That it shall be lawful for the Lords of the said committee, at any time either before or after any bye-law, order, rule or regulation (*o*) shall have been laid before them as aforesaid shall have come into operation, to notify to the company who shall have made the same, their disallowance thereof, and, in case the same shall be in force at the time of such disallowance, the time at which the same shall cease to be in force; and no bye-law, order, rule or regulation which shall be so disallowed shall have any force or effect whatsoever, or if it shall be in force at the time of such disallowance, it shall cease to have any force or effect at the time limited in the notice of such disallowance, saving in so far as any penalty may have been then already incurred under the same.

Board of Trade may disallow bye-laws.

[See vol. I. ch. X. sect. 9.]

**10.** [*Repeal of provisions requiring confirmation of bye-laws by justices:* Repealed, 34 & 35 Vict. c. 71.]

**11, 12.** [*Power to Board of Trade to direct prosecutions to enforce provisions of railway acts.—Limitation of one year for prosecutions:* Repealed, 7 & 8 Vict. c. 85, s. 16, and 34 & 35 Vict. c. 78, s. 17. See now 7 & 8 Vict. c. 85, ss. 17, 18.]

**13.** That it shall be lawful for any officer, or agent of any railway company, or for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any engine-driver, guard, porter or other servant in the employ of such company who shall be found drunk while employed upon the railway, or commit any offence against any of the bye-laws, rules or regulations of such company, or shall wilfully, maliciously or negligently do or omit to do any act whereby the life or limb of any person passing along or being upon the railway belonging to such company, or the works thereof respectively, shall be or might be injured or endangered, or whereby the passage of any of the engines, carriages or trains shall be or might be obstructed or impeded, and to convey such engine-driver, guard, porter or other servant so offending, or any person counselling, aiding or assisting in such offence, with all convenient despatch, before some justice of the peace for the place within which such offence shall be committed, without any other warrant or authority than this act, and every such person so offending, and every person counselling, aiding or assisting therein as aforesaid, shall, when convicted before such justice as aforesaid (who is hereby authorized and required, upon complaint to him made, upon oath, without information in writing, to take cognizance thereof, and to act summarily in the premises), in the discretion of such justice, be imprisoned, with or without hard labour, for any term not exceeding two calendar months, or, in the like discretion of such justice, shall for every such offence forfeit to her Majesty any sum not exceeding ten pounds, and in default of payment thereof shall be imprisoned, with or without hard labour as aforesaid, for such period not exceeding two calendar months, as such justice shall appoint: such commitment to be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing court of quarter sessions in the usual manner (*p*).

Railway servants guilty of misconduct may be taken without warrant before justice of the peace;

who may fine or imprison,

**14.** Provided always, That (if upon the hearing of any such complaint he shall think fit) it shall be lawful for such justice, instead of deciding upon the matter of complaint summarily, to commit the person or persons charged with such offence for trial for the same at the quarter sessions for

or commit railway servant to quarter sessions.

(*o*) Sic—read "which."

(*p*) The provisions of this section are repeated by 5 & 6 Vict. c. 55, s. 17, which extends them to waggon-drivers, navvies, and the servants of foreign companies.

the county or place wherein such offence shall have been committed, and to order that any such person so committed shall be imprisoned and detained in any of her Majesty's gaols or houses of correction in the said county or place in the meantime, or to take bail for his appearance, with or without sureties, in his discretion; and every such person so offending, and convicted before such court of quarter sessions as aforesaid (which said court is hereby required to take cognizance of and hear and determine such complaint), shall be liable, in the discretion of such court, to be imprisoned, with or without hard labour, for any term not exceeding two years.

**15.** [*Wilfully obstructing engine or carriage using railway, a misdemeanor punishable by imprisonment for not more than two years:* Repealed, 24 & 25 Vict. c. 95. See now 24 & 25 Vict. c. 97, ss 35, 36; and 24 & 25 Vict. c. 100, ss. 32, 33, 34, post.]

Punishment of persons obstructing officers of company, or trespassing upon railway

**16.** That if any person shall wilfully obstruct or impede any officer or agent of any railway company in the execution of his duty upon any railway, or upon or in any of the stations or other works or premises connected therewith, or if any person shall wilfully trespass upon any railway, or any of the stations or other works or premises connected therewith, and shall refuse to quit the same upon request to him made by any officer or agent of the said company, every such person so offending, and all others aiding or assisting therein, shall and may be seized and detained, by any such officer or agent, or any person whom he may call to his assistance, until such offender or offenders can be conveniently taken before some justice of the peace for the county or place wherein such offence shall be committed, and when convicted before such justice as aforesaid, (who is hereby authorized and required, upon complaint to him upon oath, to take cognizance thereof and to act summarily in the premises,) shall in the discretion of such justice forfeit to her Majesty any sum not exceeding five pounds, and in default of payment thereof shall or may be imprisoned for any term not exceeding two calendar months, such imprisonment to be determined on payment of the amount of the penalty.

Exclusion of certiorari.

**17.** That no proceeding to be had and taken in pursuance of this act shall be quashed or vacated for want of form, or be removed by certiorari, or by any other writ or process whatsoever, into any of her Majesty's courts of record at Westminster or elsewhere, any law or statute to the contrary notwithstanding.

Repeal of provisions in special acts empowering justices to decide disputes as to proper places for openings in ledges or flanches.

**18.** And whereas many railway companies are bound, by the provisions of the acts of Parliament by which they are incorporated or regulated, to make, at the expense of the owner or occupier of lands adjoining the railway, openings in the ledges or flanches thereof (except at certain places on such railway in the said act specified), for effecting communications between such railway and any collateral or branch railway to be laid down over such lands, and any disagreement or difference which shall arise as to the proper places for making any such openings in the ledges or flanches is by such acts directed to be referred to the decision of any two justices of the peace within their respective jurisdictions; and whereas it is expedient that so much of every clause, provision and enactment in any act of Parliament heretofore passed, as gives to any justice or justices the power of hearing or deciding upon any such disagreement or difference as to the proper places for any such openings in the ledges or flanches of any railway, should be repealed: be it therefore enacted, That so much of every such clause, provision and enactment as aforesaid shall be repealed.

**Board of Trade to determine such disputes in future.**

**19.** That in case any disagreement or difference shall arise between any such owner or occupier, or other persons, and any railway company, as to the proper places for any such openings in the ledges or flanches of any railway, (except at such places as aforesaid,) for the purpose of such com-

munication, then the same shall be left to the decision of the Lords of the said committee, who are hereby empowered to hear and determine the same in such way as they shall think fit, and their determination shall be binding on all parties.

**20.** [*Communications to Board of Trade to be left at their office. Notices, &c. by the Board duly signed to be deemed authentic, and service on a director, &c. to be good service on company:* Repealed 31 & 32 Vict. c. 119, s. 17; see now s. 39 of that act, post.]

Meaning of the words "railway" and "company"

**21.** That wherever the word "railway" is used in this act it shall be construed to extend to all railways constructed under the powers of any act of Parliament, and intended for (q) the conveyance of passengers in or upon carriages drawn or impelled by the power of steam or by any other mechanical power; and wherever the word "company" is used in this act, it shall be construed to extend to and include the proprietors for the time being of any such railway, whether a body corporate or individuals, and their lessees, executors, administrators and assigns, unless the subject or context be repugnant to such construction.

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## 5 & 6 VICT. CAP. 55 (RAILWAY REGULATION ACT, 1842) (r).

*An Act for the better Regulation of Railways, and for the Conveyance of Troops.* [30*th July*, 1842.

3 & 4 Vict. c. 97.

Whereas by an act passed in the third and fourth years of the reign of her present Majesty, intituled "An Act for regulating Railways," provision was made for the supervision of railways; and whereas it is expedient for the safety of the public to make further provision for that purpose; be it enacted,

Recited act and this act to be construed together.

**2.** That the provisions of the said recited act and of this act shall be construed together as one act, except so far as the provisions of the said recited act are hereby repealed or shall be inconsistent with the provisions of this act.

**3.** [*Repeal of 3 & 4 Vict. c. 97, ss. 1, 2, as to notice before opening railway:* Repealed, 37 & 38 Vict. c. 96 (Statute Law Revision Act, 1874.)]

Notice of intended opening of railway. [See vol. I. ch. X. sect. 7.]

**4.** That no railway or portion of any railway shall be opened for the public conveyance of passengers until one calendar month after notice in writing of the intention of opening the same shall have been given, by the company to whom such railway shall belong, to the Lords of the committee of her Majesty's Privy Council appointed for trade and foreign plantations, and until ten days after notice in writing shall have been given by the said company to the Lords of the said committee of the time when the said railway or portion of railway will be, in their opinion, sufficiently completed for the safe conveyance of passengers and ready for inspection (s).

If railway opened without notice, company to forfeit 20*l.*

**5.** That if any railway or portion of any railway shall be opened without such notice as aforesaid, the company to whom such railway shall belong shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open until the said notices shall have been duly given and shall have expired; and every such penalty may be re-

(q) See *R.* v. *Bradford*, 29 Law J. (M. C.) 171.

(r) See 36 & 37 Vict. c. 76, post.

(s) See the circular issued by the Board of Trade after receipt of the first notice, post.

covered in any of her Majesty's courts of record, or in the Court of Session or in any of the sheriffs' courts in Scotland.

Board of Trade empowered to postpone the opening.

**6.** That if the officer or officers appointed by the Lords of the said committee to inspect any such railway or portion of railway shall, after inspection thereof, report in writing to the Lords of the said committee that, in his or their opinion, the opening of the same would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the establishment for working such railway, together with the grounds of such opinion, it shall be lawful for the Lords of the said committee, and so from time to time, as often as such officers shall, after further inspection thereof, so report, to order and direct the company to whom such railway shall belong, to postpone such opening for any period not exceeding one calendar month at any one time, until it shall appear to the Lords of the said committee that such opening may take place without danger to the public; and if any such railway, or any portion thereof, shall be opened contrary to any such order and direction of the Lords of the said committee, the company to whom such railway shall belong shall forfeit to her Majesty the sum of twenty pounds for every day during which the same shall continue open contrary to such order and direction; and any such penalty may be recovered in any of her Majesty's courts of record, or in the Court of Session, or in any of the sheriffs' courts in Scotland: Provided always, that no such order as aforesaid shall be binding upon any railway company unless therewith shall be delivered to the said company a copy of the report of the officer or officers on which such order shall be founded (*t*).

**7, 8.** [*Notice of accidents to be given to Board of Trade.—Power to Board of Trade to direct returns of accidents:* Repealed, 34 & 35 Vict. c. 78, s. 17, and sched. See now sect. 6 of that act, post.]

Gates at level crossings to be kept closed across the road. [See vol. I. ch. IX. sect. 4.]

**9.** And whereas by an act passed in the second and third years of her present Majesty and intituled "An Act to amend an Act of the Fifth and Sixth Years of his late Majesty King William the Fourth, relating to Highways," it was enacted, that whenever a railway crosses, or shall hereafter cross, any turnpike road, or any other highway or statute labour road for carts or carriages in Great Britain, the proprietors or directors of the said railway shall make and maintain good and sufficient gates across each end of such turnpike or other road at each end of the said crossings, and shall employ good and proper persons to open and shut such gates, so that the persons, carts or carriages passing along such turnpike or other road shall not be exposed to any danger or damage by the passing of any carriages or engines along the said railway: And whereas by the acts relating to certain railways it is provided that such gates shall be kept constantly closed across the railway, except during the time when carriages or engines passing along the railway shall have to cross such turnpike or other road; and whereas experience has shown that it is more conducive to safety that such gates should be kept closed across the turnpike or other road instead of across the railway: be it therefore enacted, That, notwithstanding anything to the contrary contained in any act of Parliament heretofore passed such gates shall be kept constantly closed across each end of such turnpike or other roads, in lieu of across the railway, except during the time when horses, cattle, carts or carriages, passing along such turnpike or other road, shall have to cross such railway: and such gates shall be of such dimensions, and so constructed as, when closed across the ends of such turnpike or other roads, to fence in the railway, and prevent cattle or horses passing along the road from entering upon the railway while the gates are closed:

(*t*) See also 34 & 35 Vict. c. 78, s. 5, and 36 & 37 Vict. c. 76, s. 6, post.

Provided always, that it shall be lawful for the Lords of the said committee, in any case in which they are satisfied that it will be more conducive for the public safety that the gates at any level crossing over any such turnpike or other road should be kept closed across the railway, to order and direct that such gates shall be kept so closed, instead of across the road; and such order of the Lords of the said committee shall be a sufficient authority for the directors or proprietors of any railway company to whom such order is addressed, for keeping such gates closed, in the manner directed by the Lords of the said committee (*t*).

Board of Trade may order gates to be kept closed across railway

**10.** And whereas it is expedient that further provision be made for the safety of the public in respect of the fences of railways (*t*): be it enacted, That all railway companies shall be under the same liability of obligation to erect, and to maintain and repair, good and sufficient fences throughout the whole of their respective lines, as they would have been if every part of such fences had been originally ordered to be made under an order of justices, by virtue of the provisions to that effect in the acts of Parliament relating to such railways respectively (*u*).

Maintenance of fences.

**11.** Where two or more railway companies whose railways have a common terminus or a portion of the same line of rails in common, or which form separate portions of one continued line of railway communication, shall not be able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, it shall be lawful for the Lords of the said committee, upon the application of either of the parties, to decide the questions in dispute between them, so far as the same relate to the safety of the public, and to order and determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either of the parties respectively; and if any railway company shall refuse or wilfully neglect to obey any such order made upon or against such company by the Lords of the said committee pursuant to this provision, such company shall forfeit to her Majesty the sum of twenty pounds per day for every day during which such refusal or neglect shall continue; and every such penalty may be recovered in any of her Majesty's courts of record, or in the Court of Session, or in any of the sheriffs' courts in Scotland.

Disputes between connecting railways to be decided by the Board of Trade.

**12.** And whereas powers of laying down branch lines opening into the ledges or flanches of main lines of railway, and of entering upon and passing along such main lines with carriages and waggons drawn by locomotive engines, or by other mechanical or animal power, and also powers to form roads or railways across existing railways on a level, have been given by various acts relative to railways, to the owners or occupiers of lands adjoining the railway, and to other persons with their consent; and whereas experience has shown that the exercise of such powers without limitation would in many cases be attended with danger to the public using such railway: be it therefore enacted, That if, in the case of any railway on which passengers are conveyed by steam or other mechanical power, it shall appear to the Lords of the said committee that such power as aforesaid cannot be so exercised without seriously endangering the public safety, and that an arrangement may be made with a due regard to existing rights of property, it shall be lawful for the Lords of the said committee to order and direct that such powers shall only be exercised subject to such conditions as the Lords of the said committee shall direct: Provided always, that no railway shall be considered a passenger railway if two-thirds or more of the gross annual revenue of such railway shall be derived from the carriage thereon of coals, ironstone, or other metals or minerals.

Powers of making branch communication with railways, and of entering upon them with locomotive engines, to be regulated by the Board of Trade.

"Passenger railway."

(*t*) See also 8 & 9 Vict. c. 20, s. 47, post.

(*u*) 8 & 9 Vict. c. 20, s. 68, post, is a substitution for this.

Board of Trade may authorise substitution of bridge for level crossing.
[See vol. I. ch. IX. sect. 4.]

**13.** And whereas in many cases railways have been made to cross turnpike roads, highways and private roads and tramways on the level, and the companies to whom such railways belong would in some cases be willing, at their own expense, to carry such roads and tramways over or under such railways by means of a bridge or archway for the greater safety of the public, but have no authority so to do: And whereas it would promote the public safety if railway companies were enabled, under the sanction and authority of the Lords of the said committee, to substitute bridges or archways for such level crossings as aforesaid: be it therefore enacted, That in all cases where any railway company shall be willing, at their own expense, to carry any turnpike road, highway or private road or tramway over or under their railway by means of a bridge or arch in lieu of crossing the same on the level, it shall be lawful for the Lords of the said committee, on the application of the said company, and after hearing the several parties interested, if it shall appear to the Lords of the said committee that such level crossing endangers the public safety, and that the proposal of the company does not involve any violation of existing rights or interests without adequate compensation, to give the said company full power and authority for removing the danger at their own expense, either by building a bridge or by such other arrangement as the nature of the case shall require, subject to such conditions as the Lords of the said committee shall direct ($x$).

Board of Trade may authorize railway companies to enter upon adjoining lands to repair accidents.

**14.** And whereas it is essential for the public safety, and also for the proper maintenance of railways in a state of efficiency for the public service, that railway companies should have the power, in case of accidents or slips happening, or being apprehended, to their cuttings and embankments or other works, to enter upon the lands adjoining their respective railways, for the purpose of repairing or renewing the same, and to do such works as may be necessary for the purpose: be it therefore enacted, That it shall be lawful for the Lords of the said committee to empower any railway company, in case of any accident or slip happening or being apprehended to any cutting, embankment or other work belonging to them, to enter upon any lands adjoining their railway for the purpose of repairing or preventing such accident, and to do such works as may be necessary for the purpose: Provided always, that in case of necessity, it shall be lawful for any railway company to enter upon such lands, and do such works as aforesaid, without having obtained the previous sanction of the Lords of the said committee; but in every such case such railway company shall, within forty-eight hours after such entry, make a report to the Lords of the said committee, specifying the nature of such accident or apprehended accident, and of the works necessary to be done; and such powers shall cease and determine if the Lords of the said committee shall, after considering the said report, certify that their exercise is not necessary for the public safety: Provided also, that such works shall be as little injurious to the said adjoining lands as the nature of the accident, or apprehended accident, will admit of, and shall be executed with all possible despatch; and full compensation shall be made to the owners and occupiers of such lands for the loss, or injury, or inconvenience sustained by them respectively by reason of such works; the amount of which compensation, in case of any dispute about the same, shall be settled in the same manner as cases of disputed compensation are directed to be settled by the acts relating to the railway on which such works may become necessary: Provided always, that no land shall be taken permanently by any railway company for such works, without a certificate from the Lords of the said committee, as hereinafter described.

Entry without authority.

Compensation to owners, &c.

($x$) See also 26 & 27 Vict. c. 92, ss. 6, 7, 8, 16, post.

**15.** And whereas, by various acts relating to railways, compulsory powers are given to railway companies of purchasing and taking lands for the construction of such railways, and it is provided, that such compulsory powers shall not be exercised after the expiration of certain limited periods from the passing of the said acts (*y*); and whereas it is sometimes found necessary for the public safety that additional land shall be taken after the expiration of such periods, for the purpose of giving increased width to the embankments and inclination to the slopes of railways, or for making approaches to bridges or archways, or for doing such works for the repair or prevention of accidents as are hereinbefore described: be it therefore enacted, That in every case in which the Lords of the said committee shall certify that the public safety requires additional land to be taken by any railway company for such purposes as aforesaid, the compulsory powers of purchasing and taking land contained in the act or acts of such railway company, together with all the clauses and provisions relative thereto, shall, as regards such portion or portions of land as are mentioned in the certificate of the Lords of the said committee, revive and be in full force for such further period as shall be mentioned in such certificate; provided always, that any railway company applying to the Lords of the said committee for any such certificate shall give fourteen days' notice in writing, in the manner prescribed by the act or acts of such company for serving notices on land-owners, of their intention to make such application to all the parties interested in such lands, or such of them as shall be known to the company, and shall state in such notice the particulars of the lands required; and if any of such parties interested shall apply within the said period of fourteen days to the Lords of the said committee, such party shall be heard by them before any such certificate is given: provided also, that where any such application shall have been made by any railway company to the Lords of the said committee, upon which application any such certificate shall have been refused, the directors of such railway company shall, if required by the Lords of the said committee, repay to the party resisting such application any expenses which he or they may have incurred in resisting such application.

Board of Trade may authorize extension of compulsory powers of taking lands.

Notice to owners, &c.

**16.** And whereas, by various acts relating to railways, it is enacted, that no carriage or waggon shall carry or bear at any one time, upon the railway (including the weight of such carriage) more than four tons; and experience has shown that it is in many cases more conducive to safety to use a heavier description of carriage or waggon upon railways than was originally contemplated: be it therefore enacted, That every provision contained in any such act or acts respectively limiting the weight to be carried or borne at any one time in any carriage or waggon upon any railway (including the weight of such carriage or waggon) to four tons, shall be and the same is hereby repealed; and that, notwithstanding anything in any act contained, it shall be lawful for any railway company to use, and to permit to be used, upon any railway carriages or waggons carrying or bearing (including the weight of such carriage) a greater weight than four tons, subject to such regulations as may from time to time be made and be in force pursuant to any act or acts of Parliament already or hereafter to be passed in that behalf.

Carriages of greater weight than four tons may be used on railways.

**17.** And whereas by the said recited act for regulating railways (*z*), provision is made for the punishment of servants of railway companies guilty of misconduct, and it is expedient to extend such provision (*a*); be it enacted, That it shall be lawful for any officer or agent of any railway company, or

Railway servant guilty of misconduct may be taken without warrant before justice of the peace.

(*y*) See Lands Clauses Act, 1845 (8 & 9 Vict. c. 18), s. 123, post.

(*z*) 3 & 4 Vict. c. 97, s. 13, ante.

(*a*) The words in brackets are new; otherwise the section is identical with 3 & 4 Vict. c. 97, s. 13.

for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any engine-driver, [waggon-driver], guard, porter, servant or other person employed by the said [or by any other] railway company [or by any other company or person, in conducting traffic upon the railway belonging to the said company, or in repairing and maintaining the works of the said railway], who shall be found drunk while so employed upon the said railway, who shall commit any offence against any of the bye-laws, rules or regulations of the said company, or who shall wilfully, maliciously or negligently do or omit to do any act whereby the life or limb of any person passing along or being upon such railway or the works thereof respectively shall be or might be injured or endangered, or whereby the passage of any engines, carriages or trains shall be or might be obstructed or impeded, and to convey such engine-driver (*b*), guard, porter, servant or other person so offending, or any person counselling, aiding or assisting in such offence, with all convenient despatch, before some justice of the peace for the place within which such offence shall be committed, without any other warrant or authority than this act; and every such person so offending, and every person counselling, aiding or assisting therein as aforesaid, shall, when convicted upon the oath of one or more credible witness or witnesses before such justice as aforesaid (who is hereby authorized and required, upon complaint to him made upon oath, without information in writing, to take cognizance thereof and to act summarily in the premises), in the discretion of such justice, be imprisoned, with or without hard labour, for any term not exceeding two calendar months, or, in the like discretion of such justice, shall for every such offence forfeit to her Majesty any sum not exceeding ten pounds, and in default of payment thereof shall be imprisoned, with or without hard labour as aforesaid, for such period not exceeding two calendar months, as such justice shall appoint, such commitment to be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing court of quarter sessions in the usual manner.

Sheriffs to have jurisdiction in Scotland.

**18.** In all cases in which by the present or the said recited act for regulating railways, it is provided, that offenders shall be taken before one or more justices of the peace for the place within which the offence was committed, it shall be lawful, in case the offence is committed in Scotland, to take such offenders before the sheriff of the county, or other magistrate acting for the district within which such offence shall be committed, or where such offender shall be apprehended, without any warrant or authority other than this act; and such sheriff or magistrate is hereby empowered and required, on the application of the railway company, to proceed in all respects as if the words "sheriff or magistrate" had been substituted for the word "justice" in the said acts, and shall be entitled summarily, and without a jury, to execute the powers thereby and hereby committed to him.

**19.** [*Provisions as to communications to and from the Board of Trade, and service of notices, &c. on railway company somewhat similar to those which were contained in* 3 *&* 4 *Vict. c.* 97, *s.* 20: Repealed, 31 & 32 Vict. c. 119, s. 47, and sched. 2. See now sect. 39 of that act, post.]

Military and police.

**20.** *Whenever it shall be necessary to move any of the officers or soldiers of her Majesty's forces of the line, ordnance corps, marines, militia, or the police force, by any railway, the directors thereof shall and are hereby required to permit such forces respectively, with their baggage, stores, arms, ammunition and other necessaries and things, to be conveyed at the usual hours of starting, at such prices or upon such conditions as may from time to time be contracted for between the Secretary-at-War and such railway companies for the conveyance of such forces, on the production of a route or order*

(*b*) Sic: "Waggon-driver" appears to have been omitted by mistake.

*for their conveyance signed by the proper authorities* (c): Repealed except as to Ireland and except as to companies who lose the benefit of that act. Cheap Trains Act, 1883, 46 & 47 Vict. c. 34, s. 10.

**21.** Whenever the word "railway" is used in this or in the said recited act, it shall be construed to apply to all railways used or intended to be used for the conveyance of passengers in or upon carriages drawn or impelled by the power of steam or by any other mechanical power; and whenever the word "company" is used in this or in the said recited act, it shall be construed to extend to and include the proprietors for the time being of any such railway, whether a body corporate or individuals, and their lessees, executors, administrators, and assigns, unless in either of the above cases the subject or context be repugnant to such construction. Meaning of "railway" and "company."

**22.** All penalties under this act, for the application of which no special provision is made, shall be recovered in the name and for the use of her Majesty, in the manner provided by the said recited act for regulating railways. Application of penalties.

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## 5 & 6 VICT. CAP. 79.

*An Act to repeal the Duties payable on Stage Carriages and on Passengers conveyed upon Railways, and certain other Stamp Duties in Great Britain, and to grant other Duties in lieu thereof, and also to amend the Laws relating to the Stamp Duties.* [5th August, 1842.

By this statute, reciting 2 & 3 Will. 4, c. 120, it is enacted by sect. 2, that in lieu of the duties by this act repealed there shall be raised, levied, collected and paid, unto and for the use of her Majesty, her heirs and successors, in and throughout Great Britain, for and in respect of (*inter alia*) the passengers conveyed upon any railway, the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in the schedule to this act; and that the said schedule shall be deemed and taken to be a part of this act; and that all the said duties shall be under the care and management of the Commissioners of Stamps and Taxes for the time being (d), and shall be denominated and deemed to be stamp duties. [See vol. I. ch. XII. s. 14.

The above-mentioned schedule contains the following duties in respect of passengers conveyed for hire, by carriages travelling upon railways; (that is to say,)

For and in respect of all passengers conveyed for hire upon or along any railway, a duty at and after the rate of 5*l.* for every 100*l.* upon all sums received or charged for the hire, fare or conveyance of all such passengers.

**4.** The proprietor or company of proprietors of every railway in Great Britain, and every other person who shall carry or convey, or cause to be carried or conveyed, any passenger for hire in or upon any railway in Great Britain, shall, from time to time and at all times, keep and enter or cause to be entered in a book or books to be kept for that purpose, in such manner and form as the Commissioners of Stamps and Taxes shall direct Accounts to be kept of money received for the conveyance of passengers on railways.

(c) Amended by 7 & 8 Vict. c. 85, s. 12, post, p. 29. See also 16 & 17 Vict. c. 69, s. 18, post.

(d) Transferred to the Commissioners of Excise by 10 & 11 Vict. c. 42, post, and to the Board of Inland Revenue by 12 & 13 Vict. c. 1.

or approve, a just and true account of all and every sum and sums of money which shall be received or charged daily by or for such proprietor or company or other person for the hire, fare or conveyance of all such passengers as aforesaid, whether the same shall be received for the conveyance of passengers on the railway of such proprietor or company or other person only, or on such last-mentioned railway and any other railway, or on any such other railway only, and for or in respect of all which sums of money the duties charged by this act shall, in manner hereinafter directed, be paid by the said proprietor or company or other person so receiving or charging the same as aforesaid, without any deduction or abatement thereout on any account or pretence whatever; and the proprietor or company of proprietors of any railway so receiving or charging any such sums of money as aforesaid, shall also in like manner keep and enter or cause to be entered an account of all sums of money paid or accounted for, or to be paid or accounted for, by such proprietor or company to the proprietor or company of proprietors of any other railway (specifying the same) upon which any of such passengers shall be carried or conveyed, as his or their share or proportion of any of such sums of money so received or charged as aforesaid, or as or for or in the nature of toll or otherwise for the use of such last-mentioned railway in the conveyance of such passengers; and the proprietor or company of proprietors, of every such last-mentioned railway shall in like manner keep and enter or cause to be entered an account of all sums of money so paid or accounted for to him or them as last aforesaid, and for or in respect of which the duties shall or ought to have been paid as aforesaid by such first-mentioned proprietor or company; *and every such proprietor and company and other person and persons respectively shall, within five days after the first Monday in every calendar month, deliver to the Commissioners of Stamps and Taxes, or to the proper officer appointed for receiving the same, a true copy or true copies of the account or accounts by this act directed to be kept, so far as the same shall relate to all sums of money received or charged and paid or accounted for as aforesaid during the preceding four or five weeks, as the case may be; (that is to say,) from and including the first Monday in the preceding month up to the first Monday of the month in which such account shall be rendered or ought to be rendered as aforesaid* (*e*); and to and with every such account there shall be annexed and delivered an affidavit (*f*) (to be taken before any one of her Majesty's justices of the peace) of such proprietor or other person as aforesaid, or of the secretary, chief clerk, or accountant of such proprietor or company or other person, stating that the deponent is well acquainted with the books and accounts of the said proprietor, company or other person, and that he has examined and checked the same, and also the account to which such affidavit is annexed, and that to the best of his knowledge, information and belief, such last-mentioned account doth contain and is a true and faithful account of all and every sum and sums of money received or charged by or for such proprietor or company or other person aforesaid for the hire, fare, or conveyance of passengers on any railway during the period comprised in such account, and of all other matters and things required by this act to be contained in such account; and such proprietor or company or other persons shall, at the time of delivering every such account, pay or cause to be paid to the Receiver General of Stamps and Taxes, or to the officer authorized by the said commissioners to receive the same, for the use of her

(*e*) See 26 & 27 Vict. c. 33, s. 13, post. The words in italics, impliedly repealed by that section, are expressly repealed by 37 & 38 Vict. c. 96 (the Statute Law Revision Act, 1874).

(*f*) A certificate, that the account is full and true, is substituted for the affidavit by s. 7 of the Cheap Trains Act, 1883 46 & 47 Vict. c. 34, post.

Majesty, the duties chargeable under this act for or in respect of all and every the sum and sums of money so received or charged as aforesaid, and contained, or which ought to be contained, in such account.

**5.** It shall be lawful (where there shall be no express contract or agreement between the parties to the contrary) for any such proprietor or company to deduct from and retain out of the monies to be paid over to any such other proprietor or company as aforesaid, the amount of the duties by this act chargeable thereon, and which such proprietor or company receiving such monies shall have paid or be liable to pay.

Deduction of duty on sums paid to other companies.

**6.** All and every the book and books of every such proprietor or company or other person, in which any account relating to such passengers, or to the money received or charged for the hire, fare or conveyance of the same, or to any money received from or paid or accounted for to any other proprietor or company for such hire, fare or conveyance as aforesaid, or a proportion thereof, or as or for such toll as aforesaid, shall be entered or kept, shall be open for the inspection and examination at all seasonable times of any officer or officers of stamp duties authorized by the Commissioners of *Stamps and Taxes* (*g*) in that behalf; and every such officer shall be at liberty to take copies of or extracts from any such book or account as aforesaid; and if any such proprietor or other person, or the secretary or accountant, or any clerk or officer of any such proprietor or company or person, having or keeping the custody or possession of any such book, or having power to produce the same, shall, upon demand made by any such officer, and upon producing and showing his authority, refuse to permit such officer of stamp duties to inspect and examine such book, or to take copies thereof or extracts therefrom, or of or from any account entered or contained therein, or shall refuse to produce such book to such officer of stamp duties for his inspection and examination, every such person so offending shall for every such offence forfeit the sum of 50*l.*

Books to be open to inspection of officers of stamps.

Penalty for refusing to permit inspection.

**7.** The proprietor or company of proprietors of every such railway, and every other person, before any passengers shall be conveyed or cause to be conveyed by him or them on any railway as aforesaid, shall give security, by bond (*h*), to her Majesty, her heirs and successors, with a condition that such proprietor or company, or other person as aforesaid, shall from time to time enter and keep, and cause to be kept and rendered, in the manner directed by this act, the accounts by this act required to be kept and rendered by such proprietor and company and persons respectively, containing and setting forth justly, truly and faithfully all the several matters and things by this act required to be contained and set forth therein; and that such proprietor or company or person, and his or their secretary, accountant and clerk, and every other person under or subject to his or their order, direction or control, having the custody or possession of any books or book of such proprietor or company, or other person as aforesaid, in which any account relating to any passengers conveyed upon any railway, or the money received, charged, accounted for, or paid for the hire, fare or conveyance of the same shall be contained or entered, shall from time to time, upon every reasonable request of any officer of stamp duties, authorised as aforesaid, produce and show to such officer, and permit him to inspect and examine the same, and to take copies thereof or extracts therefrom, and of and from any account entered or contained therein; and that such proprietor or company, or other person aforesaid, shall and will well and truly pay or cause to be paid, for the use of her Majesty, her heirs and successors, at the times and in manner directed by this act, all and every the duties

Bond for securing the duties.

(*g*) Now Inland Revenue: see note (*d*), supra.

(*h*) This bond may be dispensed with by the Inland Revenue at their discretion: Cheap Trains Act, 1883, 46 & 47 Vict. c. 34, s. 7, post.

which shall from time to time become chargeable under this act, and payable by him or them, upon or for or in respect of the passengers, or the hire or fare or conveyance of the passengers, which shall be so conveyed as aforesaid along any railway; and that such proprietor or company, or other person aforesaid, shall well and truly do and perform, and cause to be done and performed, all such acts, matters and things as by this act are required or directed to be done or performed by or on the part or behalf of such proprietors or company or other person; and every such bond shall be taken with sufficient sureties to the satisfaction of the Commissioners of *Stamps and Taxes* (*i*), and in such sum as the said commissioners may judge to be reasonable and proper; and every such security shall be renewed from time to time, whenever and so often as such bond shall be forfeited, or as the parties to the same or any of them shall die, or become bankrupt, or insolvent, or reside in parts beyond the seas, and also whenever and so often as the said commissioners shall in their discretion require the same to be renewed; and if any proprietor or company of proprietors of any such railway, or other person as aforesaid, shall convey or cause to be conveyed upon any railway, any passengers for hire, without having first given such security by bond to her Majesty, in manner hereinbefore directed, or if any proprietor or company of proprietors of any railway shall permit or suffer any passengers to be conveyed for hire upon such last-mentioned railway, by any other person or company, before such other person or company shall have given security as aforesaid, and before a certificate signed by the proper officer of stamp duties in that behalf (which certificate such officer is hereby authorized and required to give), that such security hath been given, shall have been issued, or after notice in writing, signed by any authorized officer of stamp duties, and delivered to the secretary or chief clerk of the proprietor or company of proprietors of such railway, or left at the office of such railway, with any clerk or officer there, that any such security ought, in pursuance of this act, to be renewed, or is required to be renewed, and before a certificate signed as aforesaid, that the same has been renewed, shall have been issued; or if any such proprietor or company of proprietors, or other person, shall refuse or neglect to renew such security whenever and so often as the same is or shall by or in pursuance of this act be required to be renewed, such proprietor or company or person shall forfeit the sum of 100*l.*, and the further sum of 100*l.* for every day during the period for which there shall be any refusal, neglect or default to give or renew such security as aforesaid, or for every day on which any such passengers shall be permitted to be conveyed before such security shall be given or renewed, and a certificate thereof issued as aforesaid according to the true intent and meaning of this act.

Penalty for conveying passengers without having given security.

Penalties imposed by this act how to be recovered.

**24.** All pecuniary penalties imposed by or which may be incurred under this act may be sued or prosecuted for and recovered by the same ways and means, and in the same manner and form, and be mitigated and applied as any other penalty incurred under any act relating to the stamp duties may be sued for, prosecuted and recovered, mitigated and applied; and that all the powers, provisions, regulations, forfeitures, pains and penalties contained in or imposed by any act or acts in force with relation to any of the duties under the management of the Commissioners of *Stamps and Taxes* (*i*), so far as the same are or may be applicable in cases not by this act expressly provided for, and so far as the same shall not be superseded by, and as the same shall be consistent with, the express provisions of this act, shall be of full force and effect with respect to the duties by this act granted, and to the matters and things charged or chargeable therewith, in respect of which duty is hereby granted, and shall be applied and put in

(*i*) Now Inland Revenue.

execution for recovering, securing and collecting the said duties hereby granted, and for preventing, detecting and punishing all frauds, forgeries and other offences relating thereto, as fully and effectually to all intents and purposes as if such powers, provisions, regulations, forfeitures, pains and penalties had been repeated and specially enacted in this act with reference to the duties by this act granted and made payable.

Construction of terms used in this act.

**25.** Wherever in this act, with reference to any person, matter or thing, any word or words is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood to include several persons as well as one person, females as well as males, bodies politic or corporate as well as individuals, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

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## 7 & 8 VICT. CAP. 85.

*An Act to attach certain Conditions to the Construction of future Railways authorized, or to be authorized, by any Act of the present or succeeding Sessions of Parliament; and for other Purposes in relation to Railways (k).* [9th August, 1844.

If, after 21 years from the passing of any future passenger railway act, the profits come to 10*l.* per cent., the Treasury may revise the scale of tolls and fix a new scale.

[See vol. I. ch. XII. sect. 1.]

Whereas it is expedient that the concession of powers for the establishment of new lines of railway should be subjected to such conditions as are hereinafter contained for the benefit of the public, be it enacted, That if at any time after the end of twenty-one years from and after the first day of January, next after the passing of any act of the present or of any future session of Parliament, for the construction of any new line of passenger railway, whether such new line be a trunk, branch or junction line, and whether such new line be constructed by a new company incorporated for the purpose, or by any existing company, the clear annual profits divisible upon the subscribed and paid-up capital stock of the said railway, upon the average of the three then last preceding years, shall equal or exceed the rate of ten pounds (*l*) for every hundred pounds of such paid-up capital stock, it shall be lawful for the Lords Commissioners of her Majesty's Treasury, subject to the provisions hereinafter contained, upon giving to the said company three calendar months' notice in writing of their intention so to do, to revise the scale of tolls, fares and charges limited by the act or acts relating to the said railway, and to fix such new scale of tolls, fares and charges applicable to such different classes and kinds of passengers, goods and other traffic on such railway, as in the judgment of the said Lords Commissioners, assuming the same quantities and kinds of traffic to continue, shall be likely to reduce the said divisible profits to the said rate of ten pounds in the hundred: Provided always, that no such revised scale shall take effect, unless accompanied by a guarantee to subsist as long as any such revised scale of tolls, fares and charges shall be in force, that the said divisible profits, in case of any deficiency therein, shall be annually

Guarantee of profits—No further revision for 21 years.

(*k*) This act was amended as to furnishing accounts by railway companies in Ireland by 30 & 31 Vict. c. 104, post. It is frequently termed the "Cheap Trains Act:" see s. 6.

(*l*) In a few special acts, the power conferred on the government of reducing the rate of tolls at the end of 21 years has been extended to a lower rate of profit than 10 per cent. Thus, the Great Western Amalgamation Act, 26 & 27 Vict. c. cxcviii. s. 64, limits the rate to 6 per cent.

made good to the said rate of ten pounds for every hundred pounds of such capital stock: Provided also, that such revised scale shall not be again revised or such guarantee withdrawn, otherwise than with the consent of the company, for the further period of twenty-one years.

Option of purchase of future railways, 21 years after their special acts.

**2.** Whatever may be the rate of divisible profits on any such railway, it shall be lawful for the said Lords Commissioners, if they shall think fit, subject to the provisions hereinafter contained, at any time after the expiration of the said term of twenty-one years, to purchase any such railway, with all its hereditaments, stock and appurtenances, in the name and on behalf of her Majesty, upon giving to the said company three calendar months' notice in writing of their intention, and upon payment of a sum equal to twenty-five years' purchase of the said annual divisible profits, estimated on the average of the three then next preceding years: Provided, that if the average rate of profits for the said three years shall be less than the rate of ten pounds in the hundred, it shall be lawful for the company, if they shall be of opinion that the said rate of twenty-five years' purchase of the said average profits is an inadequate rate of purchase of such railway, reference being had to the prospects thereof, to require that it shall be left to arbitration, in case of difference, to determine what (if any) additional amount of purchase-money shall be paid to the said company: Provided also, that such option of purchase shall not be exercised, except with the consent of the company, while any such revised scale of tolls, fares and charges shall be in force.

Terms, 25 years' purchase or more.

Saving for existing railways.

**3.** Provided always, That the option of revision or purchase shall not be applied to any railway made or authorized to be made by any act previous to the present session; and that no branch or extension of less than five miles in length of any such line of railway shall be taken to be a new railway within the provisions of this act; and that the said option of purchase shall not be exercised as regards any branch or extension of any railway, without including such railway in the purchase, in case the proprietors thereof shall require that the same be so included.

Reservation to future parliament of the consideration of policy in regard to the said options.

**4.** And whereas it is expedient, that the policy of revision or purchase should in no manner be prejudged by the provisions of this act, but should remain for the future consideration of the legislature, upon grounds of general and national policy: And whereas it is not the intention of this act that, under the said powers of revision or purchase, if called into use, the public resources should be employed to sustain an undue competition against any independent company or companies: be it enacted, That no such notice as hereinbefore mentioned, whether of revision or purchase, shall be given until provision shall have been made by Parliament, by an act or acts to be passed in that behalf, for authorizing the guarantee or the levy of the purchase-money hereinbefore mentioned, as the case may be, and for determining, subject to the conditions hereinbefore mentioned, the manner in which the said options or either of them shall be exercised; and that no bill for giving powers to exercise the said options, or either of them, shall be received in either house of Parliament, unless it be recited in the preamble to such bill, that three months' notice of the intention to apply to Parliament for such powers has been given by the said Lords Commissioners to the company or companies to be affected thereby.

Accounts to be kept, and to be open to inspection

**5.** From and after the commencement of the period of three years next preceding the period at which the option of revision or purchase becomes available, full and true accounts shall be kept of all sums of money received and paid on account of any railway within the provisions hereinbefore contained (distinguishing, if the said railway shall be a branch railway or one worked in common with other railways, the receipts, and giving an estimate of the expenses on account of the said railway, from those on account of

the trunk line or other railways), by the directors of the company to whom such railway belongs, or by whom the same may be worked; and every such railway company shall once in every half-year during the said period of three years cause a half-yearly account in abstract to be prepared, showing the total receipt and expenditure on account of the said railway for the half-year ending the thirtieth day of June and the thirty-first day of December respectively, or such other convenient days as shall in each case be directed by the said Lords Commissioners, under distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified under the hands of two or more directors of the said railway company, and shall send a copy of the said account to the said Lords Commissioners on or before the last days of August and February respectively, or such other days as shall in each case be directed by the said Lords Commissioners in each year; and it shall be lawful for the said Lords Commissioners, if and when they shall think fit, to appoint any proper person or persons to inspect the accounts and books of the said company during the said period of three years; and it shall be lawful for any person so authorized, at all reasonable times, upon producing his authority, to examine the books, accounts, vouchers and other documents of the company, at the principal office or place of business of the company, and to take copies or extracts therefrom (*m*).

**6.** *And whereas it is expedient to secure to the poorer class of travellers the means of travelling by railway at moderate fares, and in carriages in which they may be protected from the weather; be it enacted, That on and after the several days hereinafter specified, all passenger railway companies which shall have been incorporated by any act of the present session, or which shall be hereafter incorporated, or which by any act of the present or any future session have obtained or shall obtain, directly or indirectly, any extension or amendment of the powers conferred on them respectively by their previous acts, or have been or shall be authorized to do any act unauthorized by the provisions of such previous acts, shall, by means of one train at the least, to travel along their railway from one end to the other of each trunk, branch or junction line belonging to or leased by them, so long as they shall continue to carry other passengers over such trunk, branch, or junction line, once at the least each way on every week day, except Christmas-day and Good Friday (such exception not to extend to Scotland), provide for the conveyance of third-class passengers to and from the terminal and other ordinary passenger stations of the railway, under the obligations contained in their several acts of Parliament, and with the immunities applicable by law to carriers of passengers by railway; and also under the following conditions; (that is to say,)* Cheap trains.

*Such train shall start at an hour to be from time to time fixed by the directors, subject to the approval of the Lords of the Committee of Privy Council for Trade and Plantations:* Conditions as to speed, stoppages and fare, &c.

*Such train shall travel at an average rate of speed not less than twelve miles an hour for the whole distance travelled on the railway, including stoppages:*

*Such train shall, if required, take up and set down passengers at every passenger station which it shall pass on the line:*

*The carriages in which passengers shall be conveyed by such train shall be provided with seats, and shall be protected from the weather, in a manner satisfactory to the Lords of the said committee:*

*The fare or charge for each third-class passenger by such train shall not exceed one penny for each mile travelled.*

(*m*) Amended as to Ireland, 30 & 31 Vict. c. 104, post.

*Each passenger by such train shall be allowed to take with him half-a hundred weight of luggage, not being merchandize or other articles carried for hire or profit, without extra charge; and any excess of luggage shall be charged by weight, at a rate not exceeding the lowest rate of charge for passengers' luggage by other trains:*

*Children under three years of age, accompanying passengers by such train, shall be taken without any charge; and children of three years and upwards, but under twelve years of age, at half the charge for an adult passenger:*

*And with respect to all railways subject to these obligations, which shall be open on or before the first day of November next, these obligations shall come into force on the said first day of November: and with respect to all other railways subject to these obligations, they shall come into force on the day of opening of the railway, or the day after the last day of the session in which the act shall be passed by reason of which the company will become subject thereunto, which shall first happen.* [This section, with sects. 7, 8, 9, 10 and 12, is repealed, except as to Ireland, by the Cheap Trains Act, 1883, s. 10, and schedule. See that act, post.]

Penalty for not providing cheap train.

**7.** *That if any railway company shall refuse or wilfully neglect to comply with the provisions of this act as to the said cheap trains within a reasonable time, or shall attempt to evade the operation of such order, such company shall forfeit to her Majesty a sum not exceeding twenty pounds for every day during which such refusal, neglect or evasion shall continue.* [Repealed, except as to Ireland. See supra.]

Board of Trade to have discretionary power of allowing alternative arrangements.

**8.** *Provided always, and be it enacted, That, except as to the amount of fare or charge for each passenger by such cheap trains, which shall in no case exceed the rates hereinbefore in such case provided, the Lords of the said committee shall have a discretionary power, upon the application of any railway company, of dispensing with any of the conditions hereinbefore required in regard to the conveyance of passengers by such cheap trains as aforesaid, in consideration of such other arrangements, either in regard to speed, covering from the weather, seats or other particulars, as to the Lords of the said committee shall appear more beneficial and convenient for the passengers by such cheap trains under the circumstances of the case, and shall be sanctioned by them accordingly; and any railway company which shall conform to such other conditions as shall be so sanctioned by the Lords of the said committee shall not be liable to any penalty for not observing the conditions which shall have been so dispensed with by the Lords of the said committee, in regard to the said cheap trains and the passengers conveyed thereby.*

No tax.

**9.** *That no tax shall be levied upon the receipts of any railway company from the conveyance of passengers at fares not exceeding one penny for each mile by any such cheap train as aforesaid.* [Repealed, except as to Ireland. See supra.]

Sunday cheap trains.

**10.** *That whenever any railway company subject to the hereinbefore-mentioned obligation of running cheap trains shall, from and after the days hereinbefore specified on which the said obligation is to accrue, run any train or trains on Sundays for the conveyance of passengers, it shall, under the obligations contained in its act or acts of Parliament, and with the immunities applicable by law to carriers of passengers by railway, by such train each way, on every Sunday, as shall stop at the greatest number of stations, provide sufficient carriages for the conveyance of third-class passengers at the terminal and other stations, at which such Sunday train may ordinarily stop; and the fare or charge for each third-class passenger by such train shall not exceed one penny for each mile travelled.* [Repealed, except as to Ireland. See supra.]

**11.** And whereas by an act passed in the second year of the reign of her Majesty, intituled "An Act to provide for the Conveyance of the Mails by Railways," provision was made for the transmission of the mails by railway, and it is expedient that such provision should be extended; be it enacted, That it shall be lawful for the Postmaster-General to require, in the manner and subject to the conditions as to payment for service performed prescribed by the said act, that the mails be forwarded upon any such railway as is hereinbefore last mentioned at any rate of speed which the Inspector-General of Railways for the time being shall certify to be safe, not exceeding twenty-seven miles in the hour, including stoppages; and it shall be also lawful for the Postmaster-General to send any mail-guard with bags not exceeding the weight of luggage allowed to any other passenger (or subject to the general rules of the company for any excess of that weight) by any trains other than a mail train, upon the same conditions as any other passenger: Provided, that in such last-mentioned case nothing herein or in the last-recited act contained shall be construed to authorize the Postmaster-General to require the conversion of a regular mail train into an ordinary train, or to exercise any control over the company in respect of any ordinary train, nor shall the company be responsible for the safe custody or delivery of any mail bags so sent.

Additional facilities for transmission of mails.

Speed of trains.

Mail guard.

**12.** *And whereas by an act passed in the sixth year of the reign of her Majesty, intituled, "An Act for the better Regulation of Railways, and for the Conveyance of Troops,"* it was among other things enacted, that, whenever it shall be necessary to move any of the officers or soldiers of her Majesty's forces of the line, ordnance corps, marines, militia, or the police force, by any railway, the directors thereof shall and are hereby required to permit such forces respectively, with their baggage, stores, arms, ammunition and other necessaries and things, to be conveyed at the usual hours of starting, at such prices, or upon such conditions as may from time to time be contracted for between the Secretary-at-War and such railway companies for the conveyance of such forces, on the production of a route or order for their conveyance, signed by the proper authorities; and whereas it is expedient to amend such provision in regard to the prices and conditions of conveyance by any new railway, or any railway obtaining new powers from Parliament: be it enacted, That all railway companies which have been, or shall be incorporated by any act of the present or any future session, or which by any act of the present or any future session shall have obtained or shall obtain any extension or amendment of the powers conferred by their previous acts, or any of them, or have been or shall be authorized to do any act unauthorized by the provisions of such previous acts shall be bound to provide such conveyance as aforesaid for the said military, marine and police forces, at fares not exceeding two-pence per mile for each commissioned officer proceeding on duty, such officer being entitled to conveyance in a first-class carriage, and not exceeding one penny for each mile for each soldier, marine or private of the militia or police force, and also for each wife, widow, or child above twelve years of age of a soldier entitled by act of Parliament, or by competent authority, to be sent to their destination at the public expense, children under three years of age so entitled being taken free of charge, and children of three years of age or upwards, but under twelve years of age, so entitled, being taken at half the price of an adult; and such soldiers, marines and privates of the militia or police force, and their wives, widows and children so entitled, being conveyed in carriages which shall be provided with seats, with sufficient space for the reasonable accommodation of the persons conveyed, and which shall be protected against the weather; provided, that every officer conveyed shall be entitled to take with him one hundred weight of personal luggage without extra charge, and every soldier, marine, private, wife, or widow, shall be*

Conveyance of military, &c., at fixed charges.

* 5 & 6 Vict. c. 55, ante.

Charges for officers and soldiers.

*entitled to take with him or her half-a-hundred weight of personal luggage without extra charge, all excess of the above weights of personal luggage being paid for at the rate of not more than one halfpenny per pound, and all public baggage, stores, arms, ammunition and other necessaries and things (except gunpowder and other combustible matters, which the company shall only be bound to convey at such prices and upon such conditions as may be from time to time contracted for between the Secretary-at-War and the company), shall be conveyed at charges not exceeding two-pence per ton per mile, the assistance of the military or other forces being given in loading and unloading such goods* (*n*). [Repealed by the Cheap Trains Act, 1883, 46 & 47 Vict. c. 34, *post*, except as to Ireland, and as to companies who lose the benefit of that act.]

Charges for baggage.

Companies to allow telegraphs to be established.

**13.** And whereas electrical telegraphs have been established on certain railways, and may be more extensively established hereafter, and it is expedient to provide for their due regulation: be it enacted, That every railway company, on being required so to do by the Lords of the said committee, shall be bound to allow any person or persons authorized by the Lords of the said committee, with servants and workmen, at all reasonable times to enter into or upon their lands, and to establish and lay down upon such lands adjoining the line of such railway, a line of electrical telegraph for her Majesty's service, and to give to him and them every reasonable facility for laying down the same, and for using the same for the purpose of receiving and sending messages on her Majesty's service subject to such reasonable remuneration to the company as may be agreed upon between the company and the Lords of the said committee, or in case of disagreement as may be settled by arbitration: Provided always, that, subject to a prior right of use thereof for the purposes of her Majesty, such telegraph may be used by the company for the purposes of the railway, upon such terms as may be agreed upon between the parties, or, in the event of difference, as may be settled by arbitration.

Remuneration.

Telegraph of private parties to be open to the public.

**14** (*o*). That where a line of electrical telegraph shall have been established upon any railway by the company to whom such railway belongs, or by any company, partnership, person or persons, otherwise than exclusively for her Majesty's service, or exclusively for the purposes of the railway, or jointly for both, the use of such electrical telegraph, for the purpose of receiving and sending messages, shall, subject to the prior right of use thereof for the service of her Majesty and for the purposes of the company, and subject also to such equal charges and to such reasonable regulations as may be from time to time made by the said railway company, be open for the sending and receiving of messages by all persons alike, without favour or preference.

(*n*) By 16 & 17 Vict. c. 69, s. 18, *whenever it shall be necessary to move any of the officers or men in her Majesty's navy, or belonging to any naval coast volunteers, or any other officers or men under the command or government of the Admiralty, every railway company shall, upon the production of a route or order for the conveyance of such officers or men, signed by any officer or person authorized by the Lord High Admiral or Commissioners for executing the office of Lord High Admiral in that behalf, be bound to provide conveyance for such officers or men, and their personal luggage, and also any public baggage, stores, arms, ammunition and other necessaries and things, by the railway of such company, at the usual hours of starting, in like manner, and at the like fares and rates of charge, and upon the like conditions, as under 7 & 8 Vict. c. 85, or any other act applicable to such company, such company would be bound to provide such conveyance for the officers and men of her Majesty's forces of the line, ordnance corps, marines, militia and police force, and their personal luggage, and any public baggage, stores, arms, ammunition and other necessaries and things of the said forces;* but this section also is repealed by the Cheap Trains Act, 1883, except as to Ireland, and as to companies who lose the benefit of that act.

(*o*) The Postmaster-General has now power to buy the telegraphs. See the Telegraph Acts, 1863 and 1868, post.

**15.** [*Extension of 3 & 4 Vict. c. 97, s. 15, as to appointment of inspectors by Board of Trade:* Repealed, 34 & 35 Vict. c. 78, s. 17, and sched. 2. See now ss. 3, 4, 7 of that act, post.]

**16.** [*Repeal of 3 & 4 Vict. c. 97, s. 11, as to prosecutions by Board of Trade:* See s. 17, infra.]

**17.** Whenever it shall appear to the Lords of the said committee that any of the provisions of the several acts of Parliament regulating any railway company, or the provisions of this act or of any general act relating to railways, have not been complied with on the part of any railway company or any of its officers, or that any railway company has acted or is acting in a manner unauthorized by the provisions of the act or acts of Parliament relating to such railway, or in excess of the powers given and objects defined by the said act or acts, and it shall also appear to the Lords of the said committee that it would be for the public advantage that the company should be restrained from so acting, the Lords of the said committee shall certify the same to her Majesty's Attorney-General for England or Ireland, or to the Lord Advocate for Scotland, as the case may require; and thereupon the said Attorney-General or Lord Advocate shall, in case such default of the railway company shall consist of non-compliance with the provisions of the act or acts relating thereto or of this act, or of any general act relating to railways, proceed by information, or by action, bill, plaint, suit at law or in equity, or other legal proceeding, as the case may require, to recover such penalties and forfeitures, or otherwise to enforce the due performance of the said provisions, by such means as any person aggrieved by such non-compliance, or otherwise authorized to sue for such penalties, might employ under the provisions of the said acts; and in case the default of the railway company shall consist in the commission of some act or acts unauthorized by law, then the said Attorney-General or Lord Advocate, upon receiving such certificate as aforesaid, shall proceed by suit in equity, or such other legal proceeding as the nature of the case may require, to obtain an injunction or order (which the judge in equity or other judge to whom the application is made shall be authorized and required to grant, if he shall be of opinion that the act or acts of the railway company complained of is or are not authorized by law) to restrain the company from acting in such illegal manner, or to give such other relief as the nature of the case may require.

If companies contravene or go beyond the law, Board of Trade may certify Attorney-General.

[See vol. I. ch. X. sect. 10.]

Procedure where statute infringed.

Procedure where act unauthorized

**18.** Provided always, That no such certificate as aforesaid shall be given by the Lords of the said committee until twenty-one days after they shall have given notice to the company against or in relation to whom they shall intend to give such certificate of their intention to give such certificate; and that no legal proceedings shall be commenced under the authority of the Lords of the said committee against any railway company for any offence against any of the several acts relating to railways or this act, or any general act relating to railways, except upon such certificate of the Lords of the said committee as aforesaid, and within one year after such offence shall have been committed.

Notice to company.

Prosecutions to be within one year.

**19.** And whereas many railway companies have borrowed money in a manner unauthorized by their acts of incorporation or other acts of Parliament relating to the said companies, upon the security of loan notes, or other instruments purporting to give a security for the repayment of the principal sums borrowed at certain dates, and for the payment of interest thereon in the meantime: And whereas such loan notes or other securities issued otherwise than under the provision of some act or acts of Parliament have no legal validity, and it is expedient that the issue of such illegal securities should be stopped; but such loan notes or other securities having been issued and received in good faith as between the borrower and lender,

Issue of loan notes and other illegal securities by railway companies prohibited.

[See vol. I. ch. III. sect. 8.]

and for the most part for the lawful purposes of the undertaking, and in ignorance of their legal invalidity, it is expedient to confirm such as have been already issued : be it enacted, That from and after the passing of this act any railway company issuing any loan note or other negotiable or assignable instrument purporting to bind the company as a legal security for money advanced to the said railway company otherwise than under the provisions of some act or acts of Parliament authorizing the said railway company to raise such money and to issue such security, shall for every such offence forfeit to her Majesty a sum equal to the sum for which such loan note or other instrument purports to be such security. [Proviso spent.]

2 [Spent.]

Register of loan notes.

**21.** A register of all such loan notes or other instruments shall be kept by the secretary ; and such register shall be open, without fee or reward, at all reasonable times, to the inspection of any shareholder or auditor of the undertaking, and of every person interested in any such loan note or other instrument, desirous of inspecting the same.

Remedy for recovery of tithe-rent charged on railway land.

**22.** And whereas the remedies now in force for the recovery of tithe commutation rent-charges are in many instances ineffectual for such parts thereof as are charged upon lands taken for the purposes of a railway, and it is therefore expedient to extend the said remedies when the said rent-charges may have been duly apportioned : be it enacted, That in all cases in which any such rent-charge, or part of any rent-charge, has been or hereafter shall be duly apportioned under the provisions of the acts for the commutation of tithes in England and Wales upon lands taken or purchased by any railway company for the purposes of such company, or upon any part of such lands, it shall be lawful for every person entitled to the said rent-charge or parts of such rent-charge, in case the same has been or shall be in arrear and unpaid for the space of twenty-one days next after any half-yearly day fixed for the payment thereof, to distrain for all arrears of the said rent-charge upon the goods, chattels and effects of the said company, whether on the land charged therewith, or any other lands, premises or hereditaments of such company, whether situated in the same parish or elsewhere, and to dispose of the distress when taken, and otherwise to demean himself in relation thereto, as any landlord may for arrears of rent reserved on a lease for years : Provided always, that nothing herein contained shall give or be construed to give a legal right to such rent-charge, when but for this act such rent-charge was not or could not be duly apportioned.

**23.** [*Provisions as to communications to and from Board of Trade, service of Notices, &c.* (similar to those of 3 & 4 Vict. c. 99, s. 20) ; Repealed, 31 & 32 Vict. c. 119, s. 47. See now s. 36 of that act, post.]

Penalties.

**24.** All penalties under this act for the application of which no special provision is made shall be recovered in the name and for the use of her Majesty, and may be recovered in any of her Majesty's courts of record or in the Court of Session or in any of the sheriff courts in Scotland.

Interpretation.
"Passenger railway."

**25.** Where the word "railway" is used in this act, it shall be construed to extend to railways constructed under the powers of any act of Parliament ; and when the words "passenger railway" are used in this act, they shall be construed to extend to railways constructed under the powers of any act of Parliament upon which one-third or more of the gross annual revenue is derived from the conveyance of passengers by steam or other mechanical power ; and whenever the word "company" is used in this act, it shall be construed to extend to include the proprietors for the time being of any such railway ; and that where a different sense is not expressly declared, or does not appear by the context, every word importing the singular number or the masculine gender shall be taken to include females

as well as males, and several persons and things as well as one person or thing.

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## 8 VICT. CAP. 16.

*An Act for consolidating in one Act certain Provisions usually inserted in Acts with respect to the constitution of Companies incorporated for carrying on Undertakings of a Public Nature (p).* [8th May, 1845.

Whereas it is expedient to comprise in one general act sundry provisions relating to the constitution and management of joint-stock companies, usually introduced into acts of Parliament authorizing the execution of undertakings of a public nature by such companies, and that as well for the purpose of avoiding the necessity of repeating such provisions in each of the several acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves; May it therefore please your Majesty that it may be enacted; and be it enacted by, &c., &c., That this act shall apply to every joint-stock company which shall by any act which shall hereafter be passed be incorporated for the purpose of carrying on any undertaking, and this act shall be incorporated with such act; and all the clauses and provisions of this act, save so far as they shall be expressly varied or excepted by any such act, shall apply to the company which shall be incorporated by such act, and to the undertaking for carrying on which such company shall be incorporated, so far as the same shall be applicable thereto respectively, and such clauses and provisions, as well as the clauses and provisions of every other act which shall be incorporated with such act, shall, save as aforesaid, form part of such act, and be construed together therewith as forming one act.

The Companies Clauses Consolidation Act

Act to apply to all companies incorporated by acts hereafter to be passed.

**2.** And with respect to the construction of this act, and of other acts to be incorporated therewith, be it enacted as follows:—

*Interpretations in this act.*

The expression "the special act" used in this act shall be construed to mean any act which shall be hereafter passed incorporating a joint-stock company for the purpose of carrying on any undertaking, and with which this act shall be so incorporated as aforesaid; and the word "prescribed," used in this act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act; and the sentence in which such word shall occur shall be construed as if instead of the word "prescribed," the expression "prescribed for that purpose in the special act" had been used; and the expression "the undertaking" shall mean the undertaking or works, of whatever nature, which shall by the special act be authorized to be executed.

"the special act;" "prescribed;" "the undertaking."

**3.** The following words and expressions, both in this and the special act, shall have the several meanings hereby assigned to them, unless there be something in the subject or the context repugnant to such construction; (that is to say,)

Interpretations in this and the special act:

Words importing the singular number only shall include the plural number; and words importing the plural number only shall include the singular number: — number;

Words importing the masculine gender only shall include females: — gender

(p) See also "The Companies Clauses Act, 1863," 26 & 27 Vict. c. 118, post.

"lands;" The word "lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure :

"lease ;" The word "lease" shall include an agreement for a lease :

"month ;" The word "month" shall mean calendar month :

"superior courts ;" The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require :

"oath ;" The word "oath" shall include affirmation in the case of Quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath :

"county ;" The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town :

"justice ;" The word "justice" shall mean justice of the peace acting for the county, city, borough, liberty, cinque port, or other place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together in petty sessions :

"two justices ;"

"the company ;" The expression "the company" shall mean the company constituted by the special act :

"directors ;" The expression "the directors" shall mean the directors of the company, and shall include all persons having the direction of the undertaking, whether under the name of directors, managers, committee of management, or under any other name :

"shareholder ;" The word "shareholder" shall mean shareholder, proprietor, or member of the company; and in referring to any such shareholder, expressions properly applicable to a person shall be held to apply to a corporation : and

"secretary." The expression "the secretary" shall mean the secretary of the company, and shall include the word "clerk."

Short title. **4.** And be it enacted, That in citing this act in other acts of Parliament and in legal instruments, it shall be sufficient to use the expression "The Companies Clauses Consolidation Act, 1845."

Mode of incorporation with special act. **5.** And whereas it may be convenient in some cases to incorporate with acts of Parliament hereafter to be passed some portion only of the provisions of this act: be it therefore enacted, That for the purpose of making any such incorporation, it shall be sufficient in any such act to enact that the clauses and provisions of this act, with respect to the matter so proposed to be incorporated (describing such matter as it is described in this act in the words introductory to the enactment with respect to such matter), shall be incorporated with such act; and thereupon all the clauses and provisions of this act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such act, form part of such act, and such act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such act shall relate.

*Distribution of Capital.*

And, with respect to the distribution of the capital of the company into shares, be it enacted as follows :

Capital to be divided into shares. **6.** The capital (*g*) of the company shall be divided into shares of the prescribed number and amount, and such shares shall be numbered in arithmetical progression, beginning with number 1; and every such share shall be distinguished by its appropriate number.

(*g*) As to additional capital, see "The Companies Clauses Act, 1863," Part II., 26 & 27 Vict. c. 118, s. 12, post.

7. All shares in the undertaking shall be personal estate, and transmissible as such, and shall not be of the nature of real estate.

Shares to be personal estate.

8. Every person who shall have subscribed the prescribed sum or upwards to the capital of the company, or shall otherwise have become entitled to a share in the company, and whose name shall have been entered on the register of shareholders hereinafter mentioned, shall be deemed a shareholder of the company.

Shareholders

9. The company shall keep a book, to be called the "Register of Shareholders;" and in such book shall be fairly and distinctly entered from time to time, the names of the several corporations, and the names and additions of the several persons entitled to shares in the company, together with the number of shares to which such shareholders shall be respectively entitled, distinguishing each share by its number, and the amount of the subscriptions paid on such shares, and the surnames or corporate names of the said shareholders shall be placed in alphabetical order; and such book shall be authenticated by the common seal of the company being affixed thereto; and such authentication shall take place at the first ordinary meeting, or at the next subsequent meeting of the company, and so from time to time at each ordinary meeting of the company.

Registry of shareholders.

[See vol. I. ch. III. sect. 2.]

10. In addition to the said register of shareholders, the company shall provide a book, to be called the "Shareholders' Address Book," (r) in which the secretary shall from time to time enter in alphabetical order the corporate names and places of business of the several shareholders of the company being corporations, and the surnames of the several other shareholders, with their respective christian names, places of abode and descriptions, so far as the same shall be known to the company; and every shareholder, or if such shareholder be a corporation, the clerk or agent of such corporation, may at all convenient times peruse such book *gratis*, and may require a copy thereof or of any part thereof: and for every hundred words so required to be copied, the company may demand a sum not exceeding sixpence.

Addresses of shareholders.

11. On demand of the holder of any share, the company shall cause a certificate of the proprietorship of such share to be delivered to such shareholder; and such certificate shall have the common seal of the company affixed thereto; and such certificate shall specify the share in the undertaking to which such shareholder is entitled; and the same may be according to the form in the Schedule (A.) to this act annexed, or to the like effect; and for such certificate the company may demand any sum not exceeding the prescribed amount, or, if no amount be prescribed, then a sum not exceeding two shillings and sixpence.

Certificates of shares to be issued to the shareholders.

12. The said certificate shall be admitted in all courts as *primâ facie* evidence of the title of such shareholder, his executors, administrators, successors or assigns, to the share therein specified; nevertheless, the want of such certificate shall not prevent the holder of any share from disposing thereof.

Certificate to be evidence.

13. If any such certificate be worn out or damaged, then, upon the same being produced at some meeting of the directors, such directors may order the same to be cancelled, and thereupon another similar certificate shall be given to the party in whom the property of such certificate, and of the share therein mentioned, shall be at the time vested; or, if such certificate be lost or destroyed, then, upon proof thereof to the satisfaction of the directors, a similar certificate shall be given to the party entitled to the certificate so lost or destroyed; and in either case a due entry of the substituted certificate shall be made by the secretary in the register of share-

Certificate to be renewed when destroyed.

(r) See also 31 & 32 Vict. c. 119, s. 34, post.

holders; and for every such certificate so given or exchanged the company may demand any sum not exceeding the prescribed amount, or, if no amount be prescribed, then a sum not exceeding two shillings and sixpence.

*Transfer of Shares*

And with respect to the transfer or transmission of shares (s), be it enacted as follows:—

[See vol I ch. III. sect. 4.] Transfer of shares to be by deed duly stamped.

**14.** Subject to the regulations herein or in the special act contained, every shareholder may sell and transfer all or any of his shares in the undertaking, or all or any part of his interest in the capital stock of the company, in case such shares shall, under the provision hereinafter contained, be consolidated into capital stock; and every such transfer shall be by deed duly stamped, in which the consideration shall be duly stated; and such deed may be according to the form in the schedule (B.) to this act annexed, or to the like effect.

Transfers of shares to be registered, &c.

**15.** The said deed of transfer (when duly executed) shall be delivered to the secretary, and be kept by him; and the secretary shall enter a memorial thereof in a book to be called the "Register of Transfers," and shall endorse such entry on the deed of transfer, and shall, on demand, deliver a new certificate to the purchaser; and for every such entry, together with such endorsement and certificate, the company may demand any sum not exceeding the prescribed amount, or, if no amount be prescribed, then a sum not exceeding two shillings and sixpence; and on the request of the purchaser of any share an indorsement of such transfer shall be made on the certificate of such share, instead of a new certificate being granted; and such indorsement, being signed by the secretary, shall be considered in every respect the same as a new certificate; and until such transfer has been so delivered to the secretary as aforesaid, the vendor of the share shall continue liable to the company for any calls that may be made upon such share, and the purchaser of the share shall not be entitled to receive any share of the profits of the undertaking, or to vote in respect of such share.

Transfer not to be made until calls paid.

**16.** No shareholder shall be entitled to transfer any share, after any call shall have been made in respect thereof, until he shall have paid such call, nor until he shall have paid all calls for the time being due on every share held by him.

Closing of transfer books.

**17.** It shall be lawful for the directors to close the register of transfers for the prescribed period, or, if no period be prescribed, then for a period not exceeding fourteen days previous to each ordinary meeting, and they may fix a day for the closing of the same, of which seven days' notice shall be given by advertisement in some newspaper as after mentioned; and any transfer made during the time when the transfer books are so closed shall, as between the company and the party claiming under the same, but not otherwise, be considered as made subsequently to such ordinary meeting.

Transmission of shares by other means than transfer to be authenticated by a declaration.

**18.** If the interest in any share have become transmitted in consequence of the death or bankruptcy or insolvency of any shareholder, or in consequence of the marriage of a female shareholder, or by any other lawful means than by a transfer according to the provisions of this or the special act, such transmission shall be authenticated by a declaration in writing as hereinafter mentioned, or in such other manner as the directors shall require; and every such declaration shall state the manner in which and the party to whom such share shall have been so transmitted, and shall be made and signed by some credible person before a justice, or before a Master or Master Extraordinary of the High Court of Chancery; and such

(s) As to cancellation and surrender of shares, see "The Companies Clauses Act, 1863," Part I., 26 & 27 Vict. c. 118, s. 4, post.

declaration shall be left with the secretary, and thereupon he shall enter the name of the person entitled under such transmission in the register of shareholders; and for every such entry the company may demand any sum not exceeding the prescribed amount, and where no amount shall be prescribed, then not exceeding five shillings; and until such transmission has been so authenticated, no person claiming by virtue of any such transmission shall be entitled to receive any share of the profits of the undertaking, nor to vote in respect of any such share as the holder thereof.

Proof of transmission by marriage, will, &c.

**19.** If such transmission be by virtue of the marriage of a female shareholder, the said declaration shall contain a copy of the register of such marriage, or other particulars of the celebration thereof, and shall declare the identity of the wife with the holder of such share; and if such transmission have taken place by virtue of any testamentary instrument, or by intestacy, the probate of the will or the letters of administration, or an official extract therefrom, shall, together with such declaration, be produced to the secretary; and upon such production in either of the cases aforesaid the secretary shall make an entry of the declaration in the said register of transfers.

Company need not regard trusts.

Receipt of one shareholder sufficient.

**20.** The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the said shares may be subject; and the receipt of the party in whose name any such share shall stand in the books of the company, or, if it stands in the names of more parties than one, the receipt of one of the parties named in the register of shareholders, shall from time to time be a sufficient discharge to the company for any dividend or other sum of money payable in respect of such share, notwithstanding any trusts to which such share may then be subject, and whether or not the company have had notice of such trusts; and the company shall not be bound to see to the application of the money paid upon such receipt.

*Payment of Calls.*

[See vol. I. ch. III. sect. 3.]

And with respect to the payment of subscriptions, and the means of enforcing the payment of calls, be it enacted as follows:—

Subscriptions to be paid when called for.

**21.** The several persons who have subscribed any money towards the undertaking, or their legal representatives respectively, shall pay the sums respectively so subscribed, or such portions thereof as shall from time to time be called for by the company, at such times and places as shall be appointed by the company; and with respect to the provisions herein or in the special act contained for enforcing the payment of calls, the word "shareholder" shall extend to and include the legal personal representatives of such shareholder.

Power to make calls.

**22.** It shall be lawful for the company from time to time to make such calls of money upon the respective shareholders, in respect of the amount of capital respectively subscribed or owing by them, as they shall think fit, provided that twenty-one days' notice at the least be given of each call, and that no call exceed the prescribed amount, if any, and that successive calls be not made at less than the prescribed interval, if any, and that the aggregate amount of calls made in any one year do not exceed the prescribed amount, if any; and every shareholder shall be liable to pay the amount of the calls so made, in respect of the shares held by him, to the persons and at the times and places from time to time appointed by the company.

Interest to be paid on calls unpaid.

**23.** If, before or on the day appointed for payment, any shareholder do not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same at the rate allowed by law from the day appointed for the payment thereof to the time of the actual payment.

Power to allow interest on payment of subscriptions before call.

**24.** It shall be lawful for the company, if they think fit, to receive from any of the shareholders willing to advance the same, all or any part of the monies due upon their respective shares beyond the sums actually called for; and upon the principal monies so paid in advance, or so much thereof as from time to time shall exceed the amount of the calls then made upon the shares in respect of which such advance shall be made, the company may pay interest at such rate, not exceeding the legal rate of interest for the time being, as the shareholder paying such sum in advance and the company shall agree upon.

Enforcement of calls by action.

**25.** If at the time appointed by the company for the payment of any call, any shareholder fail to pay the amount of such call, it shall be lawful for the company to sue such shareholder for the amount thereof in any court of law or equity having competent jurisdiction, and to recover the same, with lawful interest, from the day on which such call was payable.

Declaration in action for calls.

**26.** In any action or suit to be brought by the company against any shareholder to recover any money due for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the company to declare that the defendant is the holder of one share or more in the company, (stating the number of shares,) and is indebted to the company in the sum of money to which the calls in arrear shall amount in respect of one call or more upon one share or more, (stating the number and amount of each of such calls,) whereby an action hath accrued to the company by virtue of this and the special act.

Matter to be proved in action for calls.

**27.** On the trial or hearing of such action or suit it shall be sufficient to prove that the defendant at the time of making such call was a holder of one share or more in the undertaking, and that such call was in fact made, and such notice thereof given as is directed by this or the special act; and it shall not be necessary to prove the appointment of the directors who made such call, nor any other matter whatsoever; and thereupon the company shall be entitled to recover what shall be due upon such call, with interest thereon, unless it shall appear either that any such call exceeds the prescribed amount, or that due notice of such call was not given, or that the prescribed interval between two successive calls had not elapsed, or that calls amounting to more than the sum prescribed for the total amount of calls in one year had been made within that period.

Proof of proprietorship.

**28.** The production of the register of shareholders shall be *primâ facie* evidence of such defendant being a shareholder, and of the number and amount of his shares.

*Non-payment of Calls.*

And with respect to the forfeiture (*t*) of shares for non-payment of calls, be it enacted as follows:—

Forfeiture of shares for non-payment of calls.

**29.** If any shareholder fail to pay any call payable by him, together with the interest, if any, that shall have accrued thereon, the directors, at any time after the expiration of two months from the day appointed for payment of such call, may declare the share in respect of which such call was payable forfeited, and that whether the company have sued for the amount of such call, or not.

Notice of forfeiture to be given before declaration thereof.

**30.** Before declaring any share forfeited, the directors shall cause notice of such intention to be left at or transmitted by the post to the usual or last place of abode of the person appearing by the register of shareholders to be the proprietor of such share; and if the holder of any such share be

(*t*) As to the cancellation of forfeited shares, see "The Companies Clauses Act, 1863," 26 & 27 Vict. c. 118, s. 4, post.

abroad, or if his usual or last place of abode be not known to the directors, by reason of its being imperfectly described in the Shareholders' Address Book, or otherwise, or if the interest in any such share shall be known by the directors to have become transmitted otherwise than by transfer, as hereinbefore mentioned, but a declaration of such transmission shall not have been registered as aforesaid, and so the address of the parties to whom the same may have been transmitted, or may for the time being belong, shall not be known to the directors, the directors shall give public notice of such intention in the London or Dublin Gazette, according as the company's principal place of business shall be situate in England or Ireland, and also in some newspaper, as after mentioned; and the several notices aforesaid shall be given twenty-one days at least before the directors shall make such declaration of forfeiture.

**31.** The said declaration of forfeiture shall not take effect so as to authorize the sale or other disposition of any share until such declaration have been confirmed at some general meeting of the company, to be held after the expiration of two months at the least from the day on which such notice of intention to make such declaration of forfeiture shall have been given; and it shall be lawful for the company to confirm such forfeiture at any such meeting, and by an order at such meeting, or at any subsequent general meeting, to direct the share so forfeited to be sold or otherwise disposed of.

Forfeiture to be confirmed by a general meeting.

**32.** After such confirmation as aforesaid, it shall be lawful for the directors to sell the forfeited share, either by public auction or private contract, and if there be more than one such forfeited share, then either separately or together, as to them shall seem fit; and any shareholder may purchase any forfeited share so sold.

Sale of forfeited shares.

**33.** A declaration in writing, by some credible person not interested in the matter, made before any justice, or before any Master or Master Extraordinary of the High Court of Chancery, that the call in respect of a share was made, and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was declared and confirmed in manner hereinbefore required, shall be sufficient evidence of the facts therein stated; and such declaration, and the receipt of the treasurer of the company for the price of such share, shall constitute a good title to such share; and a certificate of proprietorship shall be delivered to such purchaser, and thereupon he shall be deemed the holder of such share, discharged from all calls due prior to such purchase; and he shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Evidence as to forfeiture of shares.

**34.** The company shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest, and the expenses attending such sale and declaration of forfeiture; and if the money produced by the sale of any such forfeited shares be more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and sale thereof, the surplus shall, on demand, be paid to the defaulter.

No more shares to be sold than sufficient for payment of calls.

**35.** If payment of such arrears of calls and interest and expenses be made before any share so forfeited and vested in the company shall have been sold, such share shall revert to the party to whom the same belonged before such forfeiture, in such manner as if such calls had been duly paid.

On payment of calls before sale, the forfeited shares to revert.

*Remedies against Shareholders*

And with respect to the remedies of creditors of the company against the shareholders, be it enacted as follows :—

Execution against shareholders to the extent of their shares in capital not paid up [See vol. I ch. II. sect. 12.]

**36.** If any execution, either at law or in equity, shall have been issued against the property or effects of the company, and if there cannot be found sufficient whereon to levy such execution, then such execution may be issued against any of the shareholders to the extent of their shares respectively in the capital of the company not then paid up: Provided always, that no such execution shall issue against any shareholder except upon an order of the court in which the action, suit or other proceeding shall have been brought or instituted, made upon motion in open court after sufficient notice in writing to the persons sought to be charged; and upon such motion such court may order execution to issue accordingly; and for the purpose of ascertaining the names of the shareholders, and the amount of capital remaining to be paid upon their respective shares, it shall be lawful for any person entitled to any such execution, at all reasonable times, to inspect the register of shareholders without fee.

Reimbursement of such shareholders.

**37.** If by means of any such execution any shareholder shall have paid any sum of money beyond the amount then due from him in respect of calls, he shall forthwith be reimbursed such additional sum by the directors out of the funds of the company.

[See vol. I. ch. III. sect 7.]

And with respect to the borrowing of money by the company on mortgage or bond (*a*), be it enacted as follows :—

Power to borrow money.

**38.** If the company be authorized by the special act to borrow money on mortgage or bond, it shall be lawful for them, subject to the restrictions contained in the special act, to borrow on mortgage or bond such sums of money as shall from time to time, by an order of a general meeting of the company, be authorized to be borrowed, not exceeding in the whole the sum prescribed by the special act, and for securing the repayment of the money so borrowed, with interest, to mortgage the undertaking, and the future calls on the shareholders, or to give bonds in manner hereinafter mentioned.

Power to reborrow

**39.** If, after having borrowed any part of the money so authorized to be borrowed on mortgage or bond, the company pay off the same, it shall be lawful for them again to borrow the amount so paid off, and so from time to time; but such power of reborrowing shall not be exercised without the authority of a general meeting of the company, unless the money be so reborrowed in order to pay off any existing mortgage or bond.

Evidence of authority for borrowing.

**40.** Where by the special act the company shall be restricted from borrowing any money on mortgage or bond until a definite portion of their capital shall be subscribed or paid up, or where by this or the special act the authority of a general meeting is required for such borrowing, the certificate of a justice that such definite portion of the capital has been subscribed or paid up, and a copy of the order of a general meeting of the company authorizing the borrowing of any money, certified by one of the directors or by the secretary to be a true copy, shall be sufficient evidence of the fact of the capital required to be subscribed or paid up having been so subscribed or paid up, and of the order for borrowing money having been made; and upon production to any justice of the books of the company, and of such other evidence as he shall think sufficient, such justice shall grant the certificate aforesaid.

(*a*) As to Debenture Stock, see "The Companies Clauses Act, 1863," Part III., 26 & 27 Vict. c. 118, s. 22, post. See also, "The Railway Companies Securities Act, 1866," 29 & 30 Vict. c. 108, post.

**41.** Every mortgage and bond for securing money borrowed by the company shall be by deed under the common seal of the company, duly stamped, and wherein the consideration shall be truly stated; and every such mortgage deed or bond may be according to the form in the Schedule (C.) or (D.) to this act annexed, or to the like effect. Mortgages and bonds to be stamped.

**42.** The respective mortgagees shall be entitled one with another to their respective proportions of the tolls, sums and premises comprised in such mortgages, and of the future calls payable by the shareholders, if comprised therein, according to the respective sums in such mortgages mentioned to be advanced by such mortgagees respectively, and to be repaid the sums so advanced, with interest, without any preference one above another by reason of priority of the date of any such mortgage, or of the meeting at which the same was authorized. Rights of mortgagees.

**43.** No such mortgage (although it should comprise future calls on the shareholders) shall, unless expressly so provided, preclude the company from receiving and applying to the purposes of the company any calls to be made by the company. Application of calls, notwithstanding mortgage.

**44.** The respective obligees in such bonds shall, proportionately according to the amount of the monies secured thereby, be entitled to be paid, out of the tolls or other property or effects of the company, the respective sums in such bonds mentioned and thereby intended to be secured, without any preference one above another by reason of priority of date of any such bond, or of the meeting at which the same was authorized, or otherwise howsoever. Rights of obligees.

**45.** A register of mortgages and bonds shall be kept by the secretary, and within fourteen days after the date of any such mortgage or bond an entry or memorial, specifying the number and date of such mortgage or bond, and the sums secured thereby, and the names of the parties thereto, with their proper additions, shall be made in such register; and such register may be perused at all reasonable times by any of the shareholders, or by any mortgagee or bond creditor of the company, or by any person interested in any such mortgage or bond, without fee or reward. Register of mortgages and bonds.

**46.** Any party entitled to any such mortgage or bond may from time to time transfer his right and interest therein to any other person; and every such transfer shall be by deed duly stamped, wherein the consideration shall be truly stated; and every such transfer may be according to the form in the Schedule (E.) to this act annexed, or to the like effect. Transfers of mortgages and bonds to be stamped.

**47.** Within thirty days after the date of every such transfer, if executed within the United Kingdom, or otherwise within thirty days after the arrival thereof in the United Kingdom, it shall be produced to the secretary, and thereupon the secretary shall cause an entry or memorial thereof to be made in the same manner as in the case of the original mortgage; and after such entry every such transfer shall entitle the transferee to the full benefit of the original mortgage or bond in all respects; and no party, having made such transfer, shall have power to make void, release or discharge the mortgage or bond so transferred, or any money thereby secured; and for such entry the company may demand a sum not exceeding the prescribed sum, or, where no sum shall be prescribed, the sum of two shillings and sixpence; and until such entry the company shall not be in any manner responsible to the transferee in respect of such mortgage. Transfers of mortgages and bonds to be registered.

**48.** The interest of the money borrowed upon any such mortgage or bond shall be paid at the periods appointed in such mortgage or bond, and, if no period be appointed, half-yearly, to the several parties entitled thereto, and in preference to any dividends payable to the shareholders of the company. Payment of interest on monies borrowed.

Transfers of interest to be stamped

**49.** The interest on any such mortgage or bond shall not be transferable, except by deed duly stamped.

Repayment of money borrowed at a time fixed.

**50.** The company may, if they think proper, fix a period for the repayment of the principal money so borrowed, with the interest thereof, and in such case the company shall cause such period to be inserted in the mortgage deed or bond; and upon the expiration of such period the principal sum, together with the arrears of interest thereon, shall, on demand, be paid to the party entitled to such mortgage or bond; and if no other place of payment be inserted in such mortgage deed or bond, such principal and interest shall be payable at the principal office or place of business of the company.

Repayment of money borrowed where no time fixed.

**51.** If no time be fixed in the mortgage deed or bond for the repayment of the money so borrowed, the party entitled to the mortgage or bond may, at the expiration or at any time after the expiration of twelve months from the date of such mortgage or bond, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months' previous notice for that purpose; and in the like case the company may at any time pay off the money borrowed, on giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee or bond creditor shall be delivered to the secretary or left at the principal office of the company, and if given by the company shall be given either personally to such mortgagee or bond creditor or left at his residence, or if such mortgagee or bond creditor be unknown to the directors, or cannot be found after diligent inquiry, such notice shall be given by advertisement in the London or Dublin Gazette, according as the principal office of the company shall be in England or Ireland, and in some newspaper as after mentioned.

Interest to cease on expiration of notice to pay off mortgage or bond.

**52.** If the company shall have given notice of their intention to pay off any such mortgage or bond at a time when the same may lawfully be paid off by them, then at the expiration of such notice all further interest shall cease to be payable on such mortgage or bond, unless on demand of payment made pursuant to such notice, or at any time thereafter, the company shall fail to pay the principal and interest due at the expiration of such notice on such mortgage or bond.

Arrears of interest, when to be enforced by appointment of a receiver.

**53.** Where by the special act the mortgagees of the company shall be empowered to enforce the payment of the arrears of interest, or the arrears of principal and interest, due on such mortgages, by the appointment of a receiver, then, if within thirty days after the interest accruing upon any such mortgage has become payable, and, after demand thereof in writing, the same be not paid, the mortgagee may, without prejudice to his right to sue for the interest so in arrear in any of the superior courts of law or equity, require the appointment of a receiver, by an application to be made as hereinafter provided: and if within six months after the principal money owing upon any such mortgage has become payable, and after demand thereof in writing the same be not paid, the mortgagee, without prejudice to his right to sue for such principal money, together with all arrears of interest, in any of the superior courts of law or equity, may, if his debt amount to the prescribed sum alone, or, if his debt does not amount to the prescribed sum, he may, in conjunction with other mortgagees, whose debts, being so in arrear, after demand as aforesaid, shall, together with his, amount to the prescribed sum, require the appointment of a receiver, by an application to be made as hereinafter provided.

Arrears of principal and interest.

Appointment of receiver.

**54.** Every application for a receiver in the cases aforesaid shall be made to two justices, and on any such application it shall be lawful for such justices, by order in writing, after hearing the parties, to appoint some person to receive the whole or a competent part of the tolls or sums liable

to the payment of such interest, or such principal and interest, as the case may be, until such interest, or until such principal and interest, as the case may be, together with all costs, including the charges of receiving the tolls or sums aforesaid, be fully paid; and upon such appointment being made, all such tolls and sums of money as aforesaid shall be paid to and received by the person so to be appointed; and the money so to be received shall be so much money received by or to the use of the party to whom such interest, or such principal and interest, as the case may be, shall be then due, and on whose behalf such receiver shall have been appointed; and after such interest and costs, or such principal, interest and costs, have been so received, the power of such receiver shall cease.

**55.** At all seasonable times the books of account of the company shall be open to the inspection of the respective mortgagees and bond creditors thereof, with liberty to take extracts therefrom, without fee or reward. Access to account books by mortgagees.

And with respect to the conversion of the borrowed money into capital, be it enacted as follows:— *Loans.*

**56.** It shall be lawful for the company, if they think fit, unless it be otherwise provided by the special act, to raise the additional sum so authorized to be borrowed, or any part thereof, by creating new shares of the company, instead of borrowing the same, or, having borrowed the same, to continue at interest only a part of such additional sum, and to raise part thereof by creating new shares; but no such augmentation of capital as aforesaid shall take place without the previous authority of a general meeting of the company. Power to convert loan into capital.

**57.** The capital so to be raised by the creation of new shares shall be considered as part of the general capital, and shall be subject to the same provisions in all respects, whether with reference to the payment of calls, or the forfeiture of shares on nonpayment of calls, or otherwise, as if it had been part of the original capital, except as to the times of making calls for such additional capital, and the amount of such calls, which respectively it shall be lawful for the company from time to time to fix as they shall think fit. New shares to be considered same as original shares.

**58.** If at the time of any such augmentation of capital taking place by the creation of new shares the then existing shares be at a premium, or of greater actual value than the nominal value thereof, then, unless it be otherwise provided by the special act, the sum so to be raised shall be divided into shares of such amount as will conveniently allow the same to be apportioned among the then shareholders in proportion to the existing shares held by them respectively; and such new shares shall be offered to the then shareholders in the proportion aforesaid; and such offer shall be made by letter under the hand of the secretary given to, or sent by post addressed to, each shareholder according to his address in the Shareholders' Address Book, or left at his usual or last place of abode. If old shares at premium, new shares to be offered to the shareholders.

**59.** The said new shares shall vest in and belong to the shareholders who shall accept the same, and pay the value thereof to the company at the time and by the instalments which shall be fixed by the company; and if any shareholder fail for one month after such offer of new shares to accept the same, and pay the instalments called for in respect thereof, it shall be lawful for the company to dispose of such shares in such manner as they shall deem most for the advantage of the company. Shares to vest in the parties accepting; otherwise to be disposed of by the directors.

**60.** If at the time of such augmentation of capital taking place the existing shares be not at a premium, then such new shares may be of such amount, and may be issued in such manner and on such terms, as the company shall think fit. If not at a premium, to be issued as company think fit.

*Consolidation of Shares.*

And with respect to the consolidation of the shares into stock, be it enacted as follows :—

Power to consolidate shares into stock.

**61.** It shall be lawful for the company from time to time, with the consent of three-fifths of the votes of the shareholders present in person or by proxy at any general meeting of the company, when due notice for that purpose shall have been given, to convert or consolidate all or any part of the shares then existing in the capital of the company, and in respect whereof the whole money subscribed shall have been paid up into a general capital stock, to be divided amongst the shareholders, according to their respective interests therein.

Proprietors of stock may transfer the same.

**62.** After such conversion or consolidation shall have taken place, all the provisions contained in this or the special act which require or imply that the capital of the company shall be divided into shares of any fixed amount, and distinguished by numbers, shall, as to so much of the capital as shall have been so converted or consolidated into stock, cease and be of no effect, and the several holders of such stock may thenceforth transfer their respective interests therein, or any parts of such interests, in the same manner and subject to the same regulations and provisions as or according to which any shares in the capital of the company might be transferred under the provisions of this or the special act; and the company shall cause an entry to be made in some book, to be kept for that purpose, of every such transfer; and for every such entry they may demand any sum not exceeding the prescribed amount, or, if no amount be prescribed, a sum not exceeding two shillings and sixpence.

Register of stock.

**63.** The company shall from time to time cause the names of the several parties who may be interested in any such stock as aforesaid, with the amount of the interest therein possessed by them respectively, to be entered in a book to be kept for the purpose, and to be called "The Register of Holders of Consolidated Stock;" and such book shall be accessible at all seasonable times to the several holders of shares or stock in the undertaking.

Proprietors of stock entitled to dividends.

**64.** The several holders of such stock shall be entitled to participate in the dividends and profits of the company, according to the amount of their respective interests in such stock, and such interests shall, in proportion to the amount thereof, confer on the holders thereof respectively the same privileges and advantages, for the purpose of voting at meetings of the company, qualification for the office of directors, and for other purposes, as would have been conferred by shares of equal amount in the capital of the company, but so that none of such privileges or advantages, except the participation in the dividends and profits of the company, shall be conferred by any aliquot part of such amount of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages respectively.

Application of capital. [See vol. I. ch. II. sect. 2.]

**65.** And be it enacted, That all the money raised by the company, whether by subscriptions of the shareholders, or by loan or otherwise, shall be applied firstly, in paying the costs and expenses incurred in obtaining the special act, and all expenses incident thereto; and, secondly, in carrying the purposes of the company into execution.

*General Meetings*

And with respect to the general meetings of the company, and the exercise of the right of voting by the shareholders (*x*), be it enacted as follows :—

Ordinary meetings to be held half-yearly. [See vol. I. ch. II. sect. 3.]

**66.** The first general meeting of the shareholders of the company shall be held within the prescribed time, or, if no time be prescribed, within one month after the passing of the special act, and the future general meetings

(*x*) See also the Railway Companies Powers Act, 1864, 27 & 28 Vict. c. 120; and the Regulation of Railways Act, 1868, 31 & 32 Vict. c. 119, s. 38, post.

shall be held at the prescribed periods, and if no periods be prescribed, in the months of February and August in each year, or at such other stated periods as shall be appointed for that purpose by an order of a general meeting; and the meetings so appointed to be held as aforesaid shall be called "ordinary meetings;" and all meetings, whether ordinary or extraordinary, shall be held in the prescribed place, if any, and if no place be prescribed, then at some place to be appointed by the directors.

**67.** No matters, except such as are appointed by this or the special act to be done at an ordinary meeting, shall be transacted at any such meeting, unless special notice of such matters have been given in the advertisement convening such meeting. Business at ordinary meetings.

**68.** Every general meeting of the shareholders, other than an ordinary meeting, shall be called an "extraordinary meeting;" and such meetings may be convened by the directors at such times as they think fit. Extraordinary meetings.

**69.** No extraordinary meeting shall enter upon any business not set forth in the notice upon which it shall have been convened. Business at extraordinary meetings

**70.** It shall be lawful for the prescribed number of shareholders, holding in the aggregate shares to the prescribed amount, or, where the number of shareholders or amount of shares shall not be prescribed, it shall be lawful for twenty or more shareholders holding in the aggregate not less than one-tenth of the capital of the company, by writing under their hands, at any time to require the directors to call an extraordinary meeting of the company; and such requisition shall fully express the object of the meeting required to be called, and shall be left at the office of the company, or given to at least three directors, or left at their last or usual places of abode; and forthwith upon the receipt of such requisition the directors shall convene a meeting of the shareholders; and if for twenty-one days after such notice the directors fail to call such meeting, the prescribed number, or such other number as aforesaid, of shareholders, qualified as aforesaid, may call such meeting, by giving fourteen days' public notice thereof. Extraordinary meetings may be required by shareholders.

**71.** Fourteen days' public notice at the least of all meetings, whether ordinary or extraordinary, shall be given by advertisement, which shall specify the place, the day, and the hour of meeting; and every notice of an extraordinary meeting, or of an ordinary meeting, if any other business than the business hereby or by the special act appointed for ordinary meetings is to be done thereat, shall specify the purpose for which the meeting is called. Notice of meetings.

**72.** In order to constitute a meeting, (whether ordinary or extraordinary,) there shall be present, either personally or by proxy, the prescribed quorum, and if no quorum be prescribed, then shareholders holding in the aggregate not less than one-twentieth of the capital of the company, and being in number not less than one for every five hundred pounds of such required proportion of capital, unless such number would be more than twenty, in which case twenty shareholders, holding not less than one-twentieth of the capital of the company, shall be the quorum; and if within one hour from the time appointed for such meeting the said quorum be not present, no business shall be transacted at the meeting other than the declaring of a dividend, in case that shall be one of the objects of the meeting, but such meeting shall, except in the case of a meeting for the election of directors, hereinafter mentioned, be held to be adjourned *sine die*. Quorum for a general meeting.

**73.** At every meeting of the company one or other of the following persons shall preside as chairman; that is to say, the chairman of the directors, or in his absence the deputy-chairman (if any), or in the absence of the chairman and deputy-chairman some one of the directors of the company to be chosen for that purpose by the meeting, or in the absence of the chairman and deputy-chairman and of all the directors, any shareholder Chairman at general meetings.

to be chosen for that purpose by a majority of the shareholders present at such meeting.

Business at meetings and adjournments.

74. The shareholders present at any such meeting shall proceed in the execution of the powers of the company with respect to the matters for which such meeting shall have been convened, and those only; and every such meeting may be adjourned from time to time, and from place to place; and no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which such adjournment took place.

Votes of shareholders.

75. At all general meetings of the company every shareholder shall be entitled to vote according to the prescribed scale of voting, and where no scale shall be prescribed every shareholder shall have one vote for every share up to ten, and he shall have an additional vote for every five shares beyond the first ten shares held by him up to one hundred, and an additional vote for every ten shares held by him beyond the first hundred shares: Provided always, that no shareholder shall be entitled to vote at any meeting unless he shall have paid all the calls then due upon the shares held by him.

Manner of voting.

76. The votes may be given either personally or by proxies, being shareholders, authorized by writing according to the form in the Schedule (F.) to this act annexed, or in a form to the like effect, under the hand of the shareholder nominating such proxy, or, if such shareholder be a corporation, then under their common seal; and every proposition at any such meeting shall be determined by the majority of votes of the parties present, including proxies, the chairman of the meeting being entitled to vote, not only as a principal and proxy, but to have a casting vote if there be an equality of votes.

Regulations as to proxies. [See vol. I. p. 30.]

77. No person shall be entitled to vote as a proxy unless the instrument appointing such proxy have been transmitted to the secretary of the company the prescribed period, or, if no period be prescribed, not less than forty-eight hours before the time appointed for holding the meeting at which such proxy is to be used.

Votes of joint shareholders.

78. If several persons be jointly entitled to a share, the person whose name stands first in the register of shareholders as one of the holders of such share shall, for the purpose of voting at any meeting, be deemed the sole proprietor thereof; and on all occasions the vote of such first-named shareholder, either in person or by proxy, shall be allowed as the vote in respect of such share, without proof of the concurrence of the other holders thereof.

Votes of lunatics and minors, &c.

79. If any shareholder be a lunatic or idiot, such lunatic or idiot may vote by his committee; and if any shareholder be a minor, he may vote by his guardian or any one of his guardians; and every such vote may be given either in person or by proxy.

Proof of a particular majority of votes only required in the event of a poll being demanded

80. Whenever in this or the special act the consent of any particular majority of votes at any meeting of the company is required in order to authorize any proceeding of the company, such particular majority shall only be required to be proved in the event of a poll being demanded at such meeting; and if such poll be not demanded, then a declaration by the chairman that the resolution authorizing such proceeding has been carried, and an entry to that effect in the book of proceedings of the company, shall be sufficient authority for such proceeding without proof of the number or proportion of votes recorded in favour of or against the same.

*Directors.* [See vol. I. ch. II. sect. 4.]

And with respect to the appointment and rotation of directors, be it enacted as follows:—

Number.

81. The number of directors shall be the prescribed number.

Power to vary number.

82. Where the company shall be authorized by the special act to increase or to reduce the number of the directors, it shall be lawful for the company

from time to time, in general meeting, after due notice for that purpose, to increase or reduce the number of the directors within the prescribed limits, if any, and to determine the order of rotation in which such reduced or increased number shall go out of office, and what number shall be a quorum at their meetings.

**83.** The directors appointed by the special act shall, unless thereby otherwise provided, continue in office until the first ordinary meeting to be held in the year next after that in which the special act shall have passed; and at such meeting the shareholders present, personally or by proxy, may either continue in office the directors appointed by the special act, or any number of them, or may elect a new body of directors, or directors to supply the places of those not continued in office, the directors appointed by the special act being eligible as members of such new body; and at the first ordinary meeting to be held every year thereafter the shareholders present, personally or by proxy, shall elect persons to supply the places of the directors then retiring from office, agreeably to the provisions hereinafter contained; and the several persons elected at any such meeting, being neither removed nor disqualified, nor having resigned, shall continue to be directors until others are elected in their stead, as hereinafter mentioned. Election of directors.

**84.** If at any meeting at which an election of directors ought to take place the prescribed quorum shall not be present within one hour from the time appointed for the meeting, no election of directors shall be made, but such meeting shall stand adjourned to the following day at the same time and place; and if at the meeting so adjourned the prescribed quorum be not present within one hour from the time appointed for the meeting, the existing directors shall continue to act and retain their powers until new directors be appointed at the first ordinary meeting of the following year. Existing directors continued on failure of meeting for election of directors.

**85.** No person shall be capable of being a director unless he be a shareholder, nor unless he be possessed of the prescribed number (if any) of shares; and no person holding an office or place of trust or profit under the company, or interested in any contract with the company, shall be capable of being a director; and no director shall be capable of accepting any other office or place of trust or profit under the company, or of being interested in any contract with the company, during the time he shall be a director. Qualification of directors. [See vol. I. ch. II. sect. 4.]

**86.** If any of the directors at any time subsequently to his election accept or continue to hold any other office or place of trust or profit under the company, or be either directly or indirectly concerned in any contract with the company, or participate in any manner in the profits of any work to be done for the company, or if such director at any time cease to be a holder of the prescribed number of shares in the company, then in any of the cases aforesaid the office of such director shall become vacant and thenceforth he shall cease from voting or acting as a director. Cases in which office of director shall become vacant.

**87.** Provided always, That no person, being a shareholder or member of any incorporated joint-stock company, shall be disqualified or prevented from acting as a director by reason of any contract entered into between such joint-stock company and the company incorporated by the special act; but no such director, being a shareholder or member of such joint-stock company, shall vote on any question as to any contract with such joint-stock company. Shareholder of an incorporated joint-stock company not disqualified by reason of contracts.

**88.** The directors appointed by the special act, and continued in office as aforesaid, or the directors elected to supply the places of those retiring as aforesaid, shall, subject to the provision hereinbefore contained for increasing or reducing the number of directors, retire from office at the times and in the proportions following, the individuals to retire being in each instance Rotation of directors.

determined by ballot among the directors, unless they shall otherwise agree; (that is to say,)

At the end of the first year after the first election of directors, the prescribed number, and, if no number be prescribed, one-third of such directors, to be determined by ballot among themselves, unless they shall otherwise agree, shall go out of office.

At the end of the second year the prescribed number, and, if no number be prescribed, one-half of the remaining number of such directors, to be determined in like manner, shall go out of office.

At the end of the third year the prescribed number, and if no number be prescribed, the remainder of such directors, shall go out of office.

And in each instance the places of the retiring directors shall be supplied by an equal number of qualified shareholders; and at the first ordinary meeting in every subsequent year, the prescribed number, and, if no number be prescribed, one-third of the directors, being those who have been longest in office, shall go out of office, and their places shall be supplied in like manner; nevertheless, every director so retiring from office may be re-elected immediately or at any future time, and after such re-election shall, with reference to the going out by rotation, be considered as a new director: Provided always, that, if the prescribed number of directors be some number not divisible by three, and the number of directors to retire be not prescribed, the directors shall in each case determine what number of directors, as nearly one-third as may be, shall go out of office, so that the whole number shall go out of office in three years.

Supply of occasional vacancies in office of directors.

**89.** If any director die, or resign, or become disqualified or incompetent to act as a director, or cease to be a director by any other cause than that of going out of office by rotation as aforesaid, the remaining directors, if they think proper so to do, may elect in his place some other shareholder, duly qualified, to be a director; and the shareholder so elected to fill up any such vacancy shall continue in office as a director so long only as the person in whose place he shall have been elected would have been entitled to continue if he had remained in office.

*Powers of Directors.*

And with respect to the powers of the directors, and the powers of the company to be exercised only in general meeting, be it enacted as follows:—

Powers of company generally may be exercised by directors.

[See vol. I. ch. II. sect. 5.]

**90.** The directors shall have the management and superintendence of the affairs of the company, and they may lawfully exercise all the powers of the company, except as to such matters as are directed by this or the special act to be transacted by a general meeting of the company, but all the powers so to be exercised shall be exercised in accordance with and subject to the provisions of this and the special act; and the exercise of all such powers shall be subject also to the control and regulation of any general meeting specially convened for the purpose, but not so as to render invalid any act done by the directors prior to any resolution passed by such general meeting.

What powers of the company may not be exercised by the directors.

**91.** Except as otherwise provided by the special act, the following powers of the company (that is to say), the choice and removal of the directors, except as hereinbefore mentioned, and the increasing or reducing of their number, where authorized by the special act, the choice of auditors, the determination as to the remuneration of the directors, auditors, treasurer and secretary, the determination as to the amount of money to be borrowed on mortgage, the determination as to the augmentation of capital, and the declaration of dividends, shall be exercised only at a general meeting of the company.

*Proceedings of Directors.*

And with respect to the proceedings and liabilities of the directors, be it enacted as follows :—

Meetings of directors.

[See Vol. I. ch. II. sect. 4.]

**92.** The directors shall hold meetings at such times as they shall appoint for the purpose, and they may meet and adjourn as they think proper, from time to time, and from place to place; and at any time any two of the directors may require the secretary to call a meeting of the directors, and in order to constitute a meeting of directors, there shall be present at the least the prescribed quorum, and when no quorum shall be prescribed, there shall be present at least one-third of the directors; and all questions at any such meeting shall be determined by the majority of votes of the directors present, and in case of an equal division of votes, the chairman shall have a casting vote in addition to his vote as one of the directors.

Permanent chairman of directors.

**93.** At the first meeting of directors held after the passing of the special act, and at the first meeting of the directors held after each annual appointment of directors, the directors present at such meeting shall choose one of the directors to act as chairman of the directors for the year following such choice, and shall also, if they think fit, choose another director to act as deputy-chairman for the same period; and if the chairman or deputy-chairman die or resign, or cease to be a director, or otherwise become disqualified to act, the directors present at the meeting next after the occurrence of such vacancy shall choose some other of the directors to fill such vacancy; and every such chairman or deputy-chairman so elected as last aforesaid shall continue in office so long only as the person in whose place he may be so elected would have been entitled to continue if such death, resignation, removal, or disqualification had not happened.

Occasional chairman of directors.

**94.** If at any meeting of the directors neither the chairman nor deputy-chairman be present, the directors present shall choose some one of their number to be chairman of such meeting.

Committees of directors.

Powers of committees.

**95.** It shall be lawful for the directors to appoint one or more committees, consisting of such number of directors as they think fit, within the prescribed limits, if any, and they may grant to such committees respectively power on behalf of the company, to do any acts relating to the affairs of the company which the directors could lawfully do, and which they shall from time to time think proper to entrust to them.

Meetings of committees.

**96.** The said committees may meet from time to time, and may adjourn from place to place, as they think proper, for carrying into effect the purposes of their appointment; and no such committee shall exercise the powers entrusted to them except at a meeting at which there shall be present the prescribed quorum, or if no quorum be prescribed, then a quorum to be fixed for that purpose by the general body of directors; and at all meetings of the committees one of the members present shall be appointed chairman: and all questions at any meeting of the committee shall be determined by a majority of votes of the members present, and in case of an equal division of votes, the chairman shall have a casting vote, in addition to his vote as a member of the committee.

Contracts by committee or directors how to be entered into.

**97.** The power which may be granted to any such committee to make contracts, as well as the power of the directors to make contracts on behalf of the company, may lawfully be exercised as follows; (that is to say,)

[See vol. I. ch. II. sect. 5.]

With respect to any contract which, if made between private persons, would be by law required to be in writing and under seal, such committee or the directors may make such contract on behalf of the company in writing, and under the common seal of the company, and in the same manner may vary or discharge the same.

With respect to any contract which, if made between private persons, would be by law required to be in writing, and signed by the parties to be charged therewith, then such committee or the directors may

make such contract on behalf of the company in writing, signed by such committee or any two of them, or any two of the directors, and in the same manner may vary or discharge the same.

With respect to any contract which, if made between private persons, would by law be valid although made by parol only, and not reduced into writing, such committee or the directors may make such contract on behalf of the company by parol only, without writing, and in the same manner may vary or discharge the same.

And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the company and their successors, and all other parties thereto, their heirs, executors or administrators, as the case may be; and on any default in the execution of any such contract, either by the company or any other party thereto, such actions or suits may be brought, either by or against the company, as might be brought had the same contracts been made between private persons only.

Proceedings to be entered in a book, and to be evidence.

**98.** The directors shall cause notes, minutes, or copies, as the case may require, of all appointments made or contracts entered into by the directors, and of the orders and proceedings of all meetings of the company, and of the directors and committees of directors, to be duly entered in books, to be from time to time provided for the purpose, which shall be kept under the superintendence of the directors; and every such entry shall be signed by the chairman of such meeting; and such entry so signed, shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such respective meetings having been duly convened or held, or of the persons making or entering such orders or proceedings being shareholders or directors or members of committee respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed until the contrary be proved.

Informalities in appointment of directors not to invalidate proceedings.

**99.** All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding it may be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were or was disqualified, be as valid as if every such person had been duly appointed, and was qualified to be a director.

Directors not to be personally liable.

**100.** No director, by being party to or executing in his capacity of director any contract, or other instrument on behalf of the company, or otherwise lawfully executing any of the powers given to the directors, shall be subject to be sued or prosecuted, either individually or collectively, by any person whomsoever; and the bodies or goods or lands of the directors shall not be liable to execution of any legal process by reason of any contract or other instrument so entered into, signed or executed by them, or by reason of any other lawful act done by them in the execution of any of their powers as directors; and the directors, their heirs, executors and administrators, shall be indemnified out of the capital of the company for all payments made or liability incurred in respect of any acts done by them, and for all losses, costs and damages which they may incur in the execution of the powers granted to them; and the directors for the time being of the company may apply the existing funds and capital of the company for the purposes of such indemnity, and may, if necessary for that purpose, make calls of the capital remaining unpaid (if any).

Indemnity of directors.

*Auditors.*

And with respect to the appointment and duties of auditors (*y*), be it enacted as follows:—

Election of auditors.

**101.** Except where by the special act auditors shall be directed to be appointed otherwise than by the company, the company shall, at the first

(*y*) See also 31 & 32 Vict. c. 119, ss. 11, 12, post.

ordinary meeting after the passing of the special act, elect the prescribed number of auditors, and, if no number is prescribed, two auditors, in like manner as is provided for the election of directors; and at the first ordinary meeting of the company in each year thereafter the company shall in like manner elect an auditor to supply the place of the auditor then retiring from office, according to the provision hereinafter contained; and every auditor elected as hereinbefore provided, being neither removed nor disqualified, nor having resigned, shall continue to be an auditor until another be elected in his stead.

**102.** Where no other qualification shall be prescribed by the special act, every auditor shall have at least one share in the undertaking; and he shall not hold any office in the company, nor be in any other manner interested in its concerns, except as a shareholder. Qualification of auditors.

**103.** One of such auditors (to be determined in the first instance by ballot between themselves, unless they shall otherwise agree, and afterwards by seniority) shall go out of office at the first ordinary meeting in each year: but the auditor so going out shall be immediately re-eligible, and after any such re-election shall, with respect to the going out of office by rotation, be deemed a new auditor. Rotation of auditors.

**104.** If any vacancy take place among the auditors in the course of the current year, then at any general meeting of the company the vacancy may, if the company think fit, be supplied by election of the shareholders. Vacancies in office of auditor.

**105.** The provision of this act respecting the failure of an ordinary meeting at which directors ought to be chosen shall apply, *mutatis mutandis*, to any ordinary meeting at which an auditor ought to be appointed. Failure of meeting to elect auditor.

**106.** The directors shall deliver to such auditors the half-yearly or other periodical accounts and balance-sheet fourteen days at the least before the ensuing ordinary meeting at which the same are required to be produced to the shareholders, as hereinafter provided. Delivery of balance sheet, &c., by directors to auditors.

**107.** It shall be the duty of such auditors to receive from the directors the half-yearly or other periodical accounts and balance-sheet required to be presented to the shareholders, and to examine the same. Duty of auditors.

**108.** It shall be lawful for the auditors to employ such accountants and other persons as they may think proper, at the expense of the company, and they shall either make a special report on the said accounts, or simply confirm the same; and such report or confirmation shall be read, together with the report of the directors, at the ordinary meeting. Powers of auditors.

And with respect to the accountability of the officers of the company, be it enacted as follows:— *Accountability of Officers.*

**109.** Before any person entrusted with the custody or control of monies, whether treasurer, collector, or other officer of the company, shall enter upon his office, the directors shall take sufficient security from him for the faithful execution of his office. Security to be taken from officers entrusted with money.

**110.** Every officer employed by the company shall from time to time, when required by the directors, make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account in writing, under his hand, of all monies received by him on behalf of the company; and such account shall state how, and to whom, and for what purpose, such monies shall have been disposed of; and, together with such account, such officer shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the directors, or to any person appointed by them to receive the same, all monies which shall appear to be owing from him upon the balance of such accounts. Officers to account on demand

E 2

Summary remedy against parties failing to account.

**111.** If any such officer fail to render such account, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if, for three days after being thereunto required, he fail to deliver up to the directors, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters and things in his possession or power relating to the execution of this or the special act, or any act incorporated therewith, or belonging to the company, then, on complaint thereof being made to a justice, such justice shall summon such officer to appear before two or more justices, at a time and place to be set forth in such summons, to answer such charge; and upon the appearance of such officer, or, in his absence, upon proof that such summons was personally served upon him, or left at his last known place of abode, such justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appear, either upon confession of such officer, or upon evidence, or upon inspection of the account, that any monies of the company are in the hands of such officer, or owing by him to the company, such justices may order such officer to pay the same; and if he fail to pay the amount, it shall be lawful for such justices to grant a warrant to levy the same by distress, or, in default thereof, to commit the offender to gaol, there to remain without bail for a period not exceeding three months, unless the same be sooner paid.

Officers refusing to deliver up documents, &c., to be imprisoned.

**112.** If any such officer refuse to make out such account in writing, or to produce and deliver to the justices the several vouchers and receipts relating thereto, or to deliver up any books, papers or writings, property, effects, matters or things in his possession or power belonging to the company, such justices may lawfully commit such offender to gaol, there to remain until he shall have delivered up all the vouchers and receipts (if any) in his possession or power relating to such accounts, and have delivered up all books, papers, writings, property, effects, matters and things (if any) in his possession or power belonging to the company.

Where officer about to abscond a warrant may be issued in the first instance.

**113.** Provided always, That if any director or other person acting on behalf of the company shall make oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe, that it is the intention of any such officer as aforesaid to abscond, it shall be lawful for the justice before whom the complaint is made, instead of issuing his summons, to issue his warrant for the bringing such officer before such two justices as aforesaid; but no person executing such warrant shall keep such officer in custody longer than twenty-four hours, without bringing him before some justice; and it shall be lawful for the justice before whom such officer may be brought either to discharge such officer, if he think there is no sufficient ground for his detention, or to order such officer to be detained in custody, so as to be brought before two justices, at a time and place to be named in such order, unless such officer give bail to the satisfaction of such justice for his appearance before such justices, to answer the complaint of the company.

Sureties not to be discharged.

**114.** No such proceeding against, or dealing with, any such officer as aforesaid shall deprive the company of any remedy which they might otherwise have against such officer, or any surety of such officer.

*Accounts.*

And with respect to the keeping of accounts, and the right of inspection thereof by the shareholders, be it enacted as follows:—

Accounts to be kept.

**115.** The directors shall cause full and true accounts to be kept of all sums of money received or expended on account of the company by the directors and all persons employed by or under them, and of the matters

and things for which such sums of money shall have been received or disbursed and paid.

**116.** The books of the company shall be balanced at the prescribed periods; and, if no periods be prescribed, fourteen days at least before each ordinary meeting; and forthwith, on the books being so balanced, an exact balance sheet shall be made up, which shall exhibit a true statement of the capital stock, credits and property of every description belonging to the company, and the debts due by the company at the date of making such balance sheet, and a distinct view of the profit or loss which shall have arisen on the transactions of the company in the course of the preceding half-year; and, previously to each ordinary meeting, such balance sheet shall be examined by the directors, or any three of their number, and shall be signed by the chairman or deputy chairman of the directors. Books to be balanced.

**117.** The books so balanced, together with such balance sheet as aforesaid, shall for the prescribed periods, and if no periods be prescribed, for fourteen days previous to each ordinary meeting, and for one month thereafter, be open for the inspection of the shareholders at the principal office or place of business of the company; but the shareholders shall not be entitled at any time, except during the periods aforesaid, to demand the inspection of such books, unless in virtue of a written order, signed by three of the directors. Inspection of accounts by shareholders at stated times.

**118.** The directors shall produce to the shareholders assembled at such ordinary meeting the said balance sheet, applicable to the period immediately preceding such meeting, together with the report of the auditors thereon as hereinbefore provided. Balance sheet to be produced at meeting.

**119.** The directors shall appoint a book-keeper to enter the accounts aforesaid in books to be provided for the purpose; and every such book-keeper shall permit any shareholder to inspect such books, and to take copies or extracts therefrom, at any reasonable time during the prescribed periods, and, if no periods be prescribed, during one fortnight before and one month after every ordinary meeting: and if he fail to permit any such shareholder to inspect such books, or take copies or extracts therefrom, during the periods aforesaid, he shall forfeit to such shareholder, for every such offence, a sum not exceeding five pounds. Book-keeper to allow inspection of accounts at the appointed times.

And with respect to the making of dividends, be it enacted as follows:— *Dividends.*

**120.** Previously to every ordinary meeting at which a dividend is intended to be declared, the directors shall cause a scheme to be prepared, showing the profits (if any) of the company for the period current since the preceding ordinary meeting at which a dividend was declared, and apportioning the same, or so much thereof as they may consider applicable to the purposes of dividend, among the shareholders, according to the shares held by them respectively, the amount paid thereon, and the periods during which the same may have been paid, and shall exhibit such scheme at such ordinary meeting, and at such meeting a dividend may be declared according to such scheme. Previously to declaration of dividends, a scheme to be prepared. [See vol. I. ch. II. sect. 10.]

**121.** The company shall not make any dividend whereby their capital stock will be in any degree reduced: Provided always, that the word "dividend" shall not be construed to apply to a return of any portion of the capital stock, with the consent of all the mortgagees and bond creditors of the company, due notice being given for that purpose at an extraordinary meeting to be convened for that object. Dividend not to reduce capital.

**122.** Before apportioning the profits to be divided among the shareholders, the directors may, if they think fit, set aside thereout such sum as they may think proper to meet contingencies, or for enlarging, repairing or improving the works connected with the undertaking, or any part thereof, and may divide the balance only among the shareholders. Power to set apart fund for contingencies.

Dividend not to be paid unless all calls paid.

**123.** No dividend shall be paid in respect of any share until all calls then due in respect of that and every other share held by the person to whom such dividend may be payable shall have been paid.

*Bye-laws*

And with respect to the making of bye-laws, be it enacted as follows :—

Power to make bye-laws for the officers of the company.

**124.** It shall be lawful for the company from time to time to make such bye-laws as they think fit, for the purpose of regulating the conduct of the officers and servants of the company, and for providing for the due management of the affairs of the company in all respects whatsoever, and from time to time to alter or repeal any such bye-laws, and make others, provided such bye-laws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this or the special act; and such bye-laws shall be reduced into writing, and shall have affixed thereto the common seal of the company: and a copy of such bye-laws shall be given to every officer and servant of the company affected thereby.

Fines for breach of bye laws.

**125.** It shall be lawful for the company, by such bye-laws, to impose such reasonable penalties upon all persons, being officers or servants of the company, offending against such bye-laws, as the company think fit, not exceeding five pounds for any one offence.

Bye-laws to allow mitigation of penalties.

**126.** All the bye-laws to be made by the company shall be so framed as to allow the justice before whom any penalty imposed thereby may be sought to be recovered, to order a part only of such penalty to be paid, if such justice shall think fit.

Evidence of bye-laws.

**127.** The production of a written or printed copy of the bye-laws of the company, having the common seal of the company affixed thereto, shall be sufficient evidence of such bye-laws, in all cases of prosecution under the same.

*Arbitration.*

And with respect to the settlement of disputes by arbitration (z) be it enacted as follows :—

Arbitrators to be appointed within fourteen days after notice.

**128.** When any dispute authorized or directed by this or the special act, or any act incorporated therewith, to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party on the request of the other party, shall, by writing under his hand, nominate and appoint an arbitrator, to whom such dispute shall be referred; and after any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation: and if, for the space of fourteen days after any such dispute shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then, upon such failure, the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single arbitrator shall be final.

Vacancy of arbitrator to be supplied.

**129.** If before the matters so referred shall be determined any arbitrator appointed by either party die, or become incapable, or refuse, or for seven days neglect to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or

(z) And see 22 & 23 Vict. c. 59, post.

other arbitrator may proceed *ex parte;* and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal or disability as aforesaid.

**130.** Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ; and if such umpire shall die, or refuse, or for seven days neglect to act, they shall forthwith after such death, refusal or neglect, appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final. Appointment of umpire.

**131.** If in either of the cases aforesaid the said arbitrators shall refuse, or shall, for seven days after request of either party to such arbitration, neglect to appoint an umpire, it shall be lawful for the Board of Trade, if they think fit, in any case in which a railway company shall be one party to the arbitration, on the application of either party to such arbitration, to appoint an umpire; and the decision of such umpire on the matters on which the arbitrators shall differ shall be final. Board of Trade may appoint umpire in case of railway companies.

**132.** The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose. Arbitrators may call for books, &c.

**133.** Except where by this or the special act, or any act incorporated therewith, it shall be otherwise provided, the costs of and attending every such arbitration to be determined by the arbitrators shall be in the discretion of the arbitrators or their umpires, as the case may be. Costs in discretion of arbitrators.

**134.** The submission to any such arbitration may be made a rule of any of the superior courts, on the application of either of the parties. Submission may be made rule of court.

*Notices.*

And with respect to the giving of notices, be it enacted as follows:—

**135.** Any summons or notice, or any writ or other proceeding at law or in equity, requiring to be served upon the company, may be served by the same being left at, or transmitted through the post directed to the principal office of the company, or one of their principal offices where there shall be more than one, or being given personally to the secretary, or, in case there be no secretary, then by being given to any one director of the company (*a*). Service of notices upon company.

**136.** Notices requiring to be served by the company upon the shareholders may, unless expressly required to be served personally, be served by the same being transmitted through the post, directed according to the registered address or other known address of the shareholder, within such period as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the giving of such notice; and in proving such service it shall be sufficient to prove that such notice was properly directed, and that it was so put into the post office. Service by company on shareholders.

**137.** All notices directed to be given to the shareholders shall, with respect to any share to which persons are jointly entitled, be given to whichever of the said persons shall be named first in the register of shareholders; and notice so given shall be sufficient notice to all the proprietors of such share. Notices to joint proprietors of shares.

**138.** All notices required by this or the special act, or any act incorporated therewith, to be given by advertisement, shall be advertised in the prescribed newspaper, or, if no newspaper be prescribed, or if the prescribed newspaper cease to be published, in a newspaper circulating in the district within which the company's principal place of business shall be situate. Notices by advertisement.

(*a*) Kept up by R. S. C., 1883, Order IX., r. 8.

Authentication of notices.

**139.** Every summons, notice, or other such document requiring authentication by the company, may be signed by two directors, or by the treasurer or the secretary of the company, and need not be under the common seal of the company, and the same may be in writing or in print, or partly in writing and partly in print.

Proof of debts in bankruptcy.

**140.** And be it enacted, That, if any person against whom the company shall have any claim or demand become bankrupt, or take the benefit of any act for the relief of insolvent debtors, it shall be lawful for the secretary or treasurer of the company, in all proceedings against the estate of such bankrupt or insolvent, or under any fiat, sequestration or act of insolvency against such bankrupt or insolvent, to represent the company, and act in their behalf, in all respects as if such claim or demand had been the claim or demand of such secretary or treasurer, and not of the company.

Tender of amends and payment into court.

**141.** (*a*) And be it enacted, That, if any party shall have committed any irregularity, trespass or other wrongful proceeding in the execution of this or the special act, or by virtue of any power or authority thereby given, and if, before action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action; and if no such tender shall have been made it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined, to pay into court such sum of money as he shall think fit; and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

*Recovery of Damages and Penalties.*

And with respect to the recovery of damages not specially provided for, and penalties, be it enacted as follows:—

Provision for damages not otherwise provided for.

**142.** In all cases where any damages, costs or expenses are by this or the special act, or any act incorporated therewith, directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by two justices; and if the amount so ascertained be not paid by the company or other party liable to pay the same within seven days after demand, the amount may be recovered by distress of the goods of the company or other party liable as aforesaid; and the justices by whom the same shall have been ordered to be paid, or either of them, on application, shall issue their or his warrant accordingly.

Distress against the treasurer.

**143.** If sufficient goods of the company cannot be found whereon to levy any such damages, costs or expenses, payable by the company, the same may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the company; and the justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such treasurer unless seven days' previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid, he may retain the amount so paid by him and all costs and expenses occasioned thereby, out of any money belonging to the company coming into his custody or control, or he may sue the company for the same.

Method of proceeding before justices in questions of damages, &c.

**144.** Where in this or the special act, or any act incorporated therewith, any question of compensation, expenses, charges or damages is referred to the determination of any one justice, or more, it shall be lawful for any

(*a*) This and the remaining sections of the act are similar to, and in most cases, identical with, ss. 135—153 of the Lands Clauses Act (8 & 9 Vict. c. 18), and with ss. 139—165 of the Railways Clauses Act (8 & 9 Vict. c. 20), post.

justice, upon the application of either party, to summon the other party to appear before one justice, or before two justices, as the case may require, at a time and place to be named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one justice, or such two justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties, or any of them, and their witnesses, on oath; and the costs of every such inquiry shall be in the discretion of such justices, and they shall determine the amount thereof.

**145.** The company shall publish the short particulars of the several offences for which any penalty is imposed by this or the special act, or any act incorporated therewith, or by any bye-law of the company affecting other persons than the shareholders, officers, or servants of the company, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the company, and where any such penalties are of local application, shall cause such boards to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed; and no such penalty shall be recoverable unless it shall have been published and kept published in the manner hereinbefore required. Publication of penalties.

**146.** If any person pull down or injure any board put up or affixed as required by this or the special act, or any act incorporated therewith, for the purpose of publishing any bye-law or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board. Penalty for defacing boards used for such publication.

**147.** Every penalty or forfeiture imposed by this or the special act, or any act incorporated therewith, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices (*b*). Penalties to be summarily recovered before two justices.

[**148, 149.** *Penalties to be levied by distress. Imprisonment in default of distress:* Repealed as to England with ss. 153, &c., by Summary Jurisdiction Act, 1881; see note to s. 159 of Railways Clauses Act, 1845, post.]

**150.** Where in this or the special act, or any act incorporated therewith, any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned on demand, to the party whose goods shall have been distrained. Distress how to be levied.

**151.** No distress levied by virtue of this or the special act, or any act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case. Distress not unlawful for want of form.

(*b*) The remaining portion of this section, with which s. 145 of the Railways Clauses Act, 1845, post, is identical, is repealed as to England by the Summary Jurisdiction Act, 1884. See last note, and the note to s. 157 of the Railways Clauses Act, 1845, post.

Application of penalties.

**152.** The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed for the benefit of the poor of such parish ; *or, if the place wherein the offence shall have been committed shall be extra-parochial, then such justices shall direct such remainder to be applied for the benefit of the poor of such extra-parochial place, or of any adjoining parish or district, and shall order the same to be paid over to the proper officer for that purpose* (c).

[**153.** *Penalties to be sued for within six months :* Repealed. See supra, s. 148, and see s. 151 of the Railways Clauses Act, 1845.]

Damage to be made good in addition to penalty.

**154.** If, through any act, neglect or default on account whereof any person shall have incurred any penalty imposed by this or the special act, or any act incorporated therewith, any damage to the property of the company shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty ; and the amount of such damages shall, in case of dispute, be determined by the justices by whom the party incurring such penalty shall have been convicted ; and on non-payment of such damages, on demand, the same shall be levied by distress, and such justices, or one of them, shall issue their or his warrant accordingly.

Penalty on witnesses making default.

**155.** *It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction, under the provisions of this or the special act, or any act incorporated therewith, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter ; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence* (d).

Transient offenders (e).

**156.** It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this or the special act, or any act incorporated therewith, and whose name and residence shall be unknown to such officer or agent, and convey him, with all convenient dispatch, before some justice, without any warrant or other authority than this or the special act, and such justice shall proceed with all convenient dispatch to the hearing and determining of the complaint against such offender.

[**157.** *Form of conviction :* See s. 148, *supra.*]

Certiorari excluded.

**158.** No proceeding in pursuance of this or the special act, or any act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

Appeal to quarter sessions within four months.

**159.** If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the special act, or any act incorporated therewith, such party may appeal to the general quarter sessions . . . (*f*).

(c) Portion italicised repealed by Stat. Law Rev. Act, 1875, 38 & 39 Vict. c. 66.

(d) Repealed "so far as relates to any matter to which summary jurisdiction acts apply" by Summary Jurisdiction Act, 1884.

(e) And see 8 & 9 Vict. c. 20, s. 154.

(*f*) Remaining portion of section as to time and notice of appeal, &c., repealed as to England by Summary Jurisdiction Act, 1884 See s. 157 of the Railways Clauses Act, 1845.

**160.** At the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

Hearing of appeal.

And with respect to the provision to be made for affording access to the special act by all parties interested, be it enacted as follows:—

*Access to Special Act.*

**161.** The company shall, at all times after the expiration of six months after the passing of the special act, keep in their principal office of business a copy of the special act, printed by the printers to her Majesty, or some of them; and where the undertaking shall be a railway, canal or other like undertaking, the works of which shall not be confined to one town or place, shall also, within the space of such six months, deposit in the office of each of the clerks of the peace of the several counties into which the works shall extend, and in the office of the town clerk of every burgh or city into which or within one mile of which the works shall extend, a copy of such special act, so printed as aforesaid; and the said clerks of the peace and town clerks, shall receive, and they and the company respectively shall retain, the said copies of the special act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner and upon the like terms and under the like penalty for default as is provided in the case of certain plans and sections by an act passed in the first year of the reign of her present Majesty, intituled "An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

Copies of special act to be kept.

Compare s. 150 of L. C. Act, p. 9?, and s. 162 of R. C. Act, p. 134.

Inspection of special act.

7 Will. IV. and 1 Vict. c. 83, ante, p. 1.

**162.** If the company shall fail to keep or deposit as hereinbefore mentioned any of the said copies of the special act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall not be so kept or deposited.

Penalty for not keeping special act.

**163.** And be it enacted, That this act shall not extend to Scotland (*g*).

Scotland.

**164.** Provided always, and be it enacted, That if any shareholder residing in Scotland shall fail to pay the amount of any call made upon him by the company in respect of any share held by him, it shall be lawful for the company to proceed against him in Scotland, and to sue for and recover the amount of such call, or to declare such share forfeited, in such manner as is by "The Companies Clauses Consolidation (Scotland) Act, 1845," in case the same shall pass into a law, provided in regard to shareholders of any company in Scotland (*h*).

Calls against shareholders residing in Scotland.

## SCHEDULES REFERRED TO BY THE FOREGOING ACT.

### SCHEDULE (A.).

*Form of Certificate of Share.*

"The Company."

Number

This is to certify that *A. B.*, of , is the proprietor of the share number of "The Company," subject to the regulations of the said company. Given under the common seal of said company, the day of , in the year of our Lord .

(*g*) The corresponding Scotch Act is 8 & 9 Vict. c. 17. All the material sections thereof are precisely identical with those of the present act.

(*h*) 8 & 9 Vict. c. 17.

SCHEDULE (B.).

*Form of Transfer of Shares or Stock.*

I , of , in consideration of the sum of , paid to me by , of , do hereby transfer to the said share [*or* "shares"], numbered in the undertaking called "The Company" [*or* " pounds Consolidated Stock in the undertaking called 'The Company,' standing [*or* 'part of the stock standing'] in my name in the books of the company"], to hold unto the said , his executors, administrators and assigns [*or*, "successors and assigns"], subject to the several conditions on which I held the same at the time of the execution hereof, and I the said do hereby agree to take the said share [*or* "shares," *or* "stock"], subject to the same conditions. As witness our hands and seals, the day of .

SCHEDULE (C.).

*Form of Mortgage Deed.*

"The Company."

Mortgage, number £ .

By virtue of [*here name the special act*], we, "The Company," in consideration of the sum of pounds paid to us by *A. B.*, of do assign unto the said *A. B.*, his executors, administrators and assigns, the said undertaking, ["and" (*in case such loan shall be in anticipation of the capital authorized to be raised*) "all future calls on shareholders"], and all the tolls and sums of money arising by virtue of the said act, and all the estate, right, title and interest of the company in the same, to hold unto the said *A. B.*, his executors, administrators and assigns, until the said sum of pounds, together with interest for the same at the rate of for every one hundred pounds by the year, be satisfied ["the principal sum to be repaid at the end of years from the date hereof," *in case any period be agreed upon for that purpose*, "at ," *or any place of payment other than the principal office of the company*]. Given under our common seal, this day of , in the year of our Lord .

SCHEDULE (D.).

*Form of Bond.*

"The Company."

Bond, number £ .

By virtue of [*here name the special act*], we "The Company," in consideration of the sum of pounds to us in hand paid by *A. B.*, of , do bind ourselves and our successors unto the said *A. B.*, his executors, administrators and assigns, in the penal sum of pounds.

The condition of the above obligation is such, that if the said company shall pay to the said *A. B.*, his executors, administrators or assigns ["at ," *in case any other place of payment than the principal office of the company be intended*], on the day of , which will be in the year one thousand eight hundred and , the principal sum of pounds, together with interest for the same at the rate of pounds per centum per annum, payable half-yearly, on the day of and day of , then the above-written obligation is to become void, otherwise to remain in full force. Given under our common seal, this day of , one thousand eight hundred and .

SCHEDULE (E.).

*Form of Transfer of Mortgage or Bond.*

I, A. B., of , in consideration of the sum of , paid to me by *G. H.*, of , do hereby transfer to the said *G. H.*, his executors, administrators and assigns, a certain bond [*or* "mortgage"], number , made by "The Company" to , bearing date the day of , for securing the sum of and interest [*or, if such transfer be by indorsement*, "the within security"], and all my right, estate and interest in and to the money thereby secured [*and if the transfer be of a mortgage*, "and in and to the tolls, money and property thereby assigned"]. In witness whereof I have hereunto set my hand and seal, this day of , one thousand eight hundred and .

SCHEDULE (F.).

*Form of Proxy.*

*A. B.*, , one of the proprietors of "The Company," doth hereby appoint *C. D.*, of , to be the proxy of the said *A. B.*, in his absence to vote in his name upon any matter relating to the undertaking proposed at the meeting of the proprietors

of the said company, to be held on the day of next, in such manner as he the said *C. D.* doth think proper. In witness whereof the said *A. B.* hath hereunto set his hand [*or, if a corporation, say,* "the common seal of the corporation"], the day of , one thousand eight hundred and .

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## 8 VICT. CAP. 18.

*An Act for consolidating in One Act certain Provisions usually inserted in Acts authorizing the taking of lands for Undertakings of a Public Nature.* [8th May, 1845.

Whereas it is expedient to comprise in one general act sundry provisions usually introduced into acts of parliament relative to the acquisition of lands required for undertakings or works of a public nature, and to the compensation to be made for the same, and that as well for the purpose of avoiding the necessity of repeating such provisions in each of the several acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves: May it therefore please your Majesty that it may be enacted, and be it enacted (&c., &c.), That this act shall apply to every undertaking authorized by any act which shall hereafter be passed, and which shall authorize the purchase or taking of lands for such undertaking, and this act shall be incorporated with such act; and all the clauses and provisions of this act, save so far as they shall be expressly varied or excepted by any such act, shall apply to the undertaking authorized thereby so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other act which shall be incorporated with such act, form part of such act, and be construed, together therewith, as forming one act.

[See vol. I. sect. 1.]

Act to apply to all undertakings under future acts, except as varied thereby.

And with respect to the construction of this act and of acts to be incorporated therewith, be it enacted as follows:—

*Interpretations in this act:*

**2.** The expression "the special act," used in this act, shall be construed to mean any act which shall be hereafter passed which shall authorize the taking of lands for the undertaking to which the same relates, and with which this act shall be so incorporated as aforesaid; and the word "prescribed," used in this act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act, and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special act," had been used; and the expression "the works" or "the undertaking" shall mean the works or undertaking, of whatever nature, which shall by the special act be authorized to be executed; and the expression "the promoters of the undertaking" shall mean the parties, whether company, undertakers, commissioners, trustees, corporations or private persons, by the special act empowered to execute such works or undertaking.

"special act;" "prescribed;" "the works;" "the undertaking;" "promoters of the undertaking."

**3.** The following words and expressions, both in this and the special act, shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction; (that is to say),—

*Interpretations in this and the special act:*

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number;

number;

gender; Words importing the masculine gender only shall include females;

"lands," The word "lands" shall extend to messuages, lands, tenements and hereditaments of any tenure;

"lease," The word "lease" shall include an agreement for a lease;

"month," The word "month" shall mean calendar month;

"superior courts;" The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require;

"oath," The word "oath" shall include affirmation in the case of Quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath;

"county," The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town:

"the sheriff," "the clerk of the peace;" The word "sheriff" shall include under-sheriff, or other legally competent deputy; and where any matter in relation to any lands is required to be done by any sheriff, or by any clerk of the peace, the expression "the sheriff," or the expression "the clerk of the peace," shall in such case be construed to mean the sheriff or the clerk of the peace of the county, city, borough, liberty, cinque port or place where such lands shall be situate; and if the lands in question, being the property of one and the same party, be situate not wholly in one county, city, borough, liberty, cinque port or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any county, city, borough, liberty, cinque port or place where any part of such lands shall be situate;

"justices;" "two justices;" The word "justices" shall mean justices of the peace acting for the county, city, liberty, cinque port or place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where such matter shall arise in respect of lands, being the property of one and the same party, situate not wholly in any one county, city, borough, liberty, cinque port or place, the same shall mean a justice acting for the county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together (i);

"owner;" Where under the provisions of this or the special act, or any act incorporated therewith, any notice shall be required to be given to the owner of any lands, or where any act shall be authorized or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any person or corporation who, under the provisions of this or the special act, would be enabled to sell and convey lands to the promoters of the undertaking;

"the Bank." The expression "the Bank" shall mean the Bank of England where the same shall relate to monies to be paid or deposited in respect of lands situate in England, and shall mean the Bank of Ireland where the same shall relate to monies to be paid or deposited in respect of lands situate in Ireland.

Short title. **4.** And be it enacted, That in citing this act in other acts of parliament, and in legal instruments, it shall be sufficient to use the expression "The Lands Clauses Consolidation Act, 1845."

Form in which portions of this act may be incorporated with other acts. **5.** And whereas it may be convenient in some cases to incorporate with acts of parliament hereafter to be passed some portion only of the provisions of this act; be it therefore enacted, That, for the purpose of

(i) As to what may be done under this act by one justice of the metropolitan police courts, see 2 & 3 Vict. c. 71, s. 14.

making any such incorporation, it shall be sufficient in any such act to enact that the clauses of this act with respect to the matter so proposed to be incorporated (describing such matter as it is described in this act in the words introductory to the enactment with respect to such matter), shall be incorporated with such act, and thereupon all the clauses and provisions of this act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such act, form part of such act, and such act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such act shall relate.

*Purchase of lands by Agreement.*

And with respect to the purchase of lands by agreement, be it enacted as follows :—

[See vol. I. ch. IV. sect. 2.]

Power to purchase lands by agreement.

**6.** Subject to the provisions of this and the special act it shall be lawful for the promoters of the undertaking to agree with the owners of any lands by the special act authorized to be taken, and which shall be required for the purposes of such act, and with all parties having any estate or interest in such lands, or by this or the special act enabled to sell and convey the same, for the absolute purchase, for a consideration in money, of any such lands, or such parts thereof as they shall think proper, and of all estates and interests in such lands of what kind soever.

Parties under disability, sale on behalf of.

**7.** It shall be lawful for all parties, being seised, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the promoters of the undertaking, and to enter into all necessary agreements for that purpose; and particularly it shall be lawful for all or any of the following parties so seised, possessed, or entitled as aforesaid to sell, convey, or release; (that is to say,) all corporations, tenants in tail or for life, married women seised in their own right, or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators, and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower, or to any lease for life, or for lives and years, or for years, or any less interest; and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties, other than married women entitled to dower, or lessees for life or for lives and years, or for years, or for any less interest, not only on behalf of themselves and their respective heirs, executors, administrators and successors, but also for and on behalf of every person entitled in reversion, remainder, or expectancy after them or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians, on behalf of their wards, and as to such committees, on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics, and idiots respectively could have exercised the same power under the authority of this or the special act if they had respectively been under no disability, and as to such trustees, executors and administrators, on behalf of their cestui que trusts, whether infants, issue unborn, lunatics, femes covert, or other persons, and that to the same extent as such cestui que trusts respectively could have exercised the same powers under the authority of this and the special act if they had respectively been under no disability.

Parties under disability, enfranchisement, &c., on behalf of.

**8.** The power hereinafter given to enfranchise copyhold lands, as well as every other power required to be exercised by the lord of any manor pursuant to the provisions of this or the special act, or any act incorporated therewith, and the power to release lands from any rent, charge, or

incumbrance, and to agree for the apportionment of any such rent, charge, or incumbrance, shall extend to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the promoters of the undertaking.

Compensation where parties under disability, how ascertained.

**9.** The purchase-money or compensation to be paid for any lands to be purchased or taken from any party under any disability or incapacity, and not having power to sell or convey such lands except under the provisions of this or the special act, and the compensation to be paid for any permanent damage or injury to any such lands, shall not, except where the same shall have been determined by the verdict of a jury, or by arbitration, or by the valuation of a surveyor appointed by two justices under the provision hereinafter contained, be less than shall be determined by the valuation of two able practical surveyors, one of whom shall be nominated by the promoters of the undertaking, and the other by the other party, and if such two surveyors cannot agree in the valuation, then by such third surveyor as any two justices shall, upon application of either party, after notice to the other party, for that purpose nominate; and each of such two surveyors if they agree, or if not then the surveyor nominated by the said justices, shall annex to the valuation a declaration in writing, subscribed by them or him, of the correctness thereof; and all such purchase-money or compensation shall be deposited in the Bank for the benefit of the parties interested, in manner hereinafter mentioned.

Surveyors' valuation.

Rent-charge, sale of land for.

**10.** It shall be lawful for any person, seised in fee of, or entitled to dispose of absolutely for his own benefit (*k*), any lands authorized to be purchased for the purposes of the special act, to sell and convey such lands or any part thereof unto the promoters of the undertaking, in consideration of an annual rent-charge payable by the promoters of the undertaking, *but, except as aforesaid, the consideration to be paid for the purchase of any such lands, or for any damage done thereto, shall be in a gross sum* (*l*).

Rents to be charged on tolls.

**11.** The yearly rents reserved by any such conveyance shall be charged on the tolls or rates, if any, payable under the special act, and shall be otherwise secured in such manner as shall be agreed between the parties, and shall be paid by the promoters of the undertaking as such rents become payable; and if at any time any such rents be not paid within thirty days after they so become payable, and after demand thereof in writing, the person to whom any such rent shall be payable may either recover the same from the promoters of the undertaking, with costs of suit, by action of debt in any of the superior courts, or it shall be lawful for him to levy the same by distress of the goods and chattels of the promoters of the undertaking.

Purchase of lands for extraordinary purposes.

[See p. 110.]

**12.** In case the promoters of the undertaking shall be empowered by the special act to purchase lands for extraordinary purposes, it shall be lawful for all parties who, under the provisions hereinbefore contained, would be enabled to sell and convey lands, to sell and convey the lands so authorized to be purchased for extraordinary purposes.

Power to sell such lands and buy others.

**13.** It shall be lawful for the promoters of the undertaking to sell the lands which they shall have so acquired for extraordinary purposes, or any part thereof, in such manner, and for such considerations, and to such persons, as the promoters of the undertaking may think fit, and again to purchase other lands for the like purposes, and afterwards sell the same, and so from time to time; but the total quantity of land to be held at any one time by the promoters of the undertaking, for the purposes aforesaid, shall not exceed the prescribed quantity.

(*k*) Extended to all sales, &c. where parties are under disability, 23 & 24 Vict. c. 106, s. 2, post.

(*l*) The words in italics repealed by 23 & 24 Vict. c. 106, s. 1, post.

**14.** The promoters of the undertaking shall not, by virtue of the power to purchase land for extraordinary purposes, purchase more than the prescribed quantity from any party under legal disability, or who would not be able to sell and convey such lands except under the powers of this and the special act; and if the promoters of the undertaking purchase the said quantity of land from any party under such legal disability, and afterwards sell the whole or any part of the land so purchased, it shall not be lawful for any party being under legal disability to sell to the promoters of the undertaking any other lands in lieu of the lands so sold or disposed of by them.

Restraint on purchase from parties under disability.

**15.** Nothing in this or the special act contained shall enable any municipal corporation to sell for the purposes of the special act without the approbation of the Commissioners of her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, or any three of them, any lands which they could not have sold without such approbation before the passing of the special act, other than such lands as the company are by the powers of this or the special act empowered to purchase or take compulsorily (*m*).

Municipal corporations not to sell without leave of Treasury.

*Purchase of Lands otherwise than by Agreement.*

And with respect to the purchase and taking of lands otherwise than by agreement (*n*), be it enacted as follows:—

**16.** Where the undertaking is intended to be carried into effect by means of a capital to be subscribed by the promoters of the undertaking, the whole of the capital or estimated sum for defraying the expenses of the undertaking shall be subscribed under contract binding the parties thereto, their heirs, executors and administrators, for the payment of the several sums by them respectively subscribed, before it shall be lawful to put in force any of the powers of this or the special act, or any act incorporated therewith in relation to the compulsory taking of land for the purposes of the undertaking.

Capital to be subscribed before compulsory powers of purchase put in force.

[See vol. I. ch. IV. s. 3.]

**17.** A certificate under the hands of two justices, certifying that the whole of the prescribed sum has been subscribed, shall be sufficient evidence thereof, and on the application of the promoters of the undertaking, and the production of such evidence as such justices think proper and sufficient, such justices shall grant such certificate accordingly.

Certificate of justices evidence that capital subscribed.

**18.** When the promoters of the undertaking shall require to purchase or take any of the lands which by this or the special act, or any act incorporated therewith, they are authorized to purchase or take, they shall give notice thereof to all the parties interested in such lands, or to the parties enabled by this act to sell and convey or release the same, or such of the said parties as shall, after diligent inquiry, be known to the promoters of the undertaking, and by such notice shall demand from such parties the particulars of their estate and interest in such lands, and of the claims made by them in respect thereof; and every such notice shall state the particulars of the lands so required, and that the promoters of the undertaking are willing to treat for the purchase thereof, and as to the compensation to be made to all parties for the damage that may be sustained by them by reason of the execution of the works.

Notice to treat.

[See vol. I. ch. IV. s. 5.]

**19.** All notices required to be served by the promoters of the undertaking upon the parties interested in or entitled to sell any such lands shall either be served personally on such parties or left at their last usual place of abode, if any such can after diligent inquiry be found, and in case any

Service of notice on owners and occupiers of lands.

(*m*) See Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50, s. 108.

(*n*) None of the provisions which follow, except sects. 16 & 17, apply to Irish railways, which are regulated by 14 & 15 Vict. c. 70, post.

such parties shall be absent from the United Kingdom, or cannot be found after diligent inquiry, shall also be left with the occupier of such lands, or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

Service of notice on corporation.

20. If any such party be a corporation aggregate such notice shall be left at the principal office of business of such corporation, or, if no such office can after diligent inquiry be found, shall be served on some principal member, if any, of such corporation, and such notice shall also be left with the occupier of such lands, or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

If a party fails to treat, or state his claim, or to agree as to compensation, question to be settled as after mentioned

[See vol I., ch. IV., s. 6.]

21. If, for twenty-one days after the service of such notice, any such party shall fail to state the particulars of his claim in respect of any such land, or to treat with the promoters of the undertaking in respect thereof, or if such party and the promoters of the undertaking shall not agree as to the amount of the compensation to be paid by the promoters of the undertaking for the interest in such lands belonging to such party, or which he is by this or the special act enabled to sell, or for any damage that may be sustained by him by reason of the execution of the works, the amount of such compensation shall be settled in the manner hereinafter provided for settling cases of disputed compensation.

Claims not exceeding 50*l.* to be settled by two justices.

22. If no agreement be come to between the promoters of the undertaking and the owners of or parties by this act enabled to sell and convey or release any lands taken or required for or injuriously affected by the execution of the undertaking, or any interest in such lands, as to the value of such lands or of any interest therein, or as to the compensation to be made in respect thereof, and if in any such case the compensation claimed shall not exceed fifty pounds, the same shall be settled by two justices.

Claims exceeding 50*l.* to be settled by arbitration or jury at option of claimant

23. If the compensation claimed or offered in any such case shall exceed fifty pounds, and if the party claiming compensation desire to have the same settled by arbitration, and signify such desire by notice in writing to the promoters of the undertaking, before they have issued their warrant to the sheriff to summon a jury in respect of such lands, under the provisions hereinafter contained, stating in such notice the nature of the interest in respect of which such party claims compensation, and the amount of the compensation so claimed, the same shall be so settled accordingly; but unless the party claiming compensation shall as aforesaid signify his desire to have the question of such compensation settled by arbitration, or if when the matter shall have been referred to arbitration the arbitrators or their umpire shall for three months have failed to make their or his award, or if no final award shall be made, the question of such compensation shall be settled by the verdict of a jury, as hereinafter provided.

Time for award three months.

Procedure where claim may be settled by justices.

24. It shall be lawful for any justice, upon the application of either party with respect to any question of disputed compensation by this or the special act, or any act incorporated therewith, authorized to be settled by two justices, to summon the other party to appear before two justices, at a time and place to be named in the summons, and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such justices to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, upon oath, and the costs of every such inquiry shall be in the discretion of such justices, and they shall settle the amount thereof.

Procedure where claim settled by arbitration.

Appointment of arbitrator.

25. When any question of disputed compensation by this or the special act, or any act incorporated therewith, authorized or required to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party on the request of the other party, shall nominate and appoint an arbitrator, to whom such dispute

shall be referred; and every appointment of an arbitrator shall be made on the part of the promoters of the undertaking under the hands of the said promoters or any two of them, or of their secretary or clerk, and on the part of any other party under the hand of such party, or if such party be a corporation aggregate under the common seal of such corporation, and such appointment shall be delivered to the arbitrator, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if, for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matter so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final.

Vacancy of arbitrator to be supplied.

**26.** If, before the matters so referred shall be determined, any arbitrator appointed by either party die, or become incapable, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if, for the space of seven days after notice in writing from the other party for that purpose, he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or disability as aforesaid.

Appointment of umpire.

**27.** Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hands, an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under the provisions of this or the special act, and if such umpire shall die, or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place, and the decision of every such umpire on the matters so referred to him shall be final.

Board of Trade may appoint an umpire on neglect of the arbitrators.

**28.** If in either of the cases aforesaid the said arbitrators shall refuse, or shall, for seven days after request of either party to such arbitration, neglect to appoint an umpire, the Board of Trade, [*in any case in which a railway company shall be one party to the arbitration, and two justices in any other case,*] (*o*) shall, on the application of either party to such arbitration, appoint an umpire (*p*), and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this or the special act, shall be final.

In case of death of single arbitrator the matter to begin *de novo*.

**29.** If, when a single arbitrator shall have been appointed, such arbitrator shall die or become incapable to act before he shall have made his award, the matters referred to him shall be determined by arbitration under the provisions of this or the special act in the same manner as if such arbitrator had not been appointed.

If either arbitrator refuse to act, the other to proceed *ex parte*.

**30.** If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse or for seven days neglect to act, the other arbitrator may proceed *ex parte*, and the decision of such other arbitrator shall

(*o*) Words in brackets repealed by the Lands Clauses (Umpire) Act, 1883, 46 Vict. c. 15.

(*p*) The Board of Trade may appoint in writing, without seal; see 14 & 15 Vict. c. 64, s. 3, post.

be as effectual as if he had been the single arbitrator appointed by both parties.

If arbitrators fail to make award within 21 days, matter to go to umpire

**31.** If, where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as shall have been appointed for that purpose by both such arbitrators under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

Power of arbitrators to call for books, &c

**32.** The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Arbitrator or umpire to make a declaration.

**33** Before any arbitrator or umpire shall enter into the consideration of any matters referred to him, he shall in the presence of a justice make and subscribe the following declaration; that is to say,

"I, *A. B.*, do solemnly and sincerely declare, That I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the act [*naming the special act*]. *A. B.*

"Made and subscribed in the presence of ."

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

Costs of arbitration.
[See vol. I. ch. VI. s. 3.]

**34.** All the costs of any such arbitration, and incident thereto, to be settled by the arbitrators (*q*), shall be borne by the promoters of the undertaking, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters of the undertaking, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions.

Award to be delivered to promoters.
Copy.

**35.** The arbitrators shall deliver their award in writing to the promoters of the undertaking, and the said promoters shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party to the arbitration, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party or any person appointed by him for that purpose.

Submission, rule of court.

**36.** The submission to any such arbitration may be made a rule of any of the superior courts, on the application of either of the parties.

Error in.

**37.** No award made with respect to any question referred to arbitration under the provisions of this or the special act shall be set aside for irregularity or error in matter of form.

Promoters to give notice before summoning jury.

**38.** Before the promoters of the undertaking shall issue their warrant for summoning a jury for settling any case of disputed compensation they shall give not less than ten days' notice to the other party of their intention to cause such jury to be summoned, and in such notice the promoters of the undertaking shall state what sum of money they are willing to give for the interest in such lands sought to be purchased by them from such party, and for the damage to be sustained by him by the execution of the works.

(*q*) These costs must now be settled by a Master. See Lands Clauses Act, 1869, 32 & 33 Vict. c. 18, s. 1, post, and as to fee, see also 31 & 32 Vict. c. 119, s. 45, post.

**39.** In every case in which any such question of disputed compensation shall be required to be determined by the verdict of a jury, the promoters of the undertaking shall issue their warrant to the sheriff, requiring him to summon a jury for that purpose, and such warrant shall be under the common seal of the promoters of the undertaking if they be a corporation, or if they be not a corporation under the hands and seals of such promoters or any two of them; and if such sheriff be interested in the matter in dispute such application shall be made to some coroner of the county in which the lands in question, or some part thereof, shall be situate, and if all the coroners of such county be so interested, such application may be made to some person having filled the office of sheriff or coroner in such county, and who shall be then living there, and who shall not be interested in the matter in dispute; and with respect to the persons last mentioned preference shall be given to one who shall have most recently served either of the said offices; and every ex-sheriff, coroner or ex-coroner, shall have power if he think fit to appoint a deputy or assessor.

Warrant to sheriff for jury

Place of interested sheriff to be supplied by coroner.

**40.** Throughout the enactments contained in this act relating to the reference to a jury, where the term "sheriff" is used, the provisions applicable thereto shall be held to apply to every coroner or other person lawfully acting in his place; and in every case in which any such warrant shall have been directed to any other person than the sheriff, such sheriff shall, immediately on receiving notice of the delivery of the warrant, deliver over, on application for that purpose, to the person to whom the same shall have been directed, or to any person appointed by him to receive the same, the jurors' book and special jurors' list belonging to the county where the lands in question shall be situate.

Sheriff equivalent to "coroner, &c.

**41.** Upon the receipt of such warrant the sheriff shall summon a jury of twenty-four indifferent persons, duly qualified to act as common jurymen in the superior courts, to meet at a convenient time and place to be appointed by him for that purpose, such time not being less than fourteen nor more than twenty-one days after the receipt of such warrant, and such place not being more than eight miles distant from the lands in question, unless by consent of the parties interested, and he shall forthwith give notice to the promoters of the works of the time and place so appointed by him.

Jury of 24 to summoned.

**42.** Out of the jurors appearing upon such summons a jury of twelve persons shall be drawn by the sheriff, in such manner as juries for trials of issues joined in the superior courts are by law required to be drawn, and if a sufficient number of jurymen do not appear in obedience to such summons, the sheriff shall return other indifferent men, duly qualified as aforesaid, of the bystanders, or others that can speedily be procured, to make up the jury to the number aforesaid; and all parties concerned may have their lawful challenges against any of the jurymen, but no such party shall challenge the array.

Jury of 12 to be impannelled.

Challenge.

**43.** The sheriff shall preside on the said inquiry, and the party claiming compensation shall be deemed the plaintiff, and shall have all such rights and privileges as the plaintiff is entitled to in the trial of actions at law; and, if either party so request in writing, the sheriff shall summon before him any person considered necessary to be examined as a witness touching the matters in question, and on the like request the sheriff shall order the jury, or any six or more of them, to view the place or matter in controversy, in like manner as views may be had in the trial of actions in the superior courts.

Sheriff to preside; witnesses to be summoned

View

**44.** If the sheriff make default in any of the matters hereinbefore required to be done by him in relation to any such trial or inquiry, he shall forfeit fifty pounds for every such offence, and such penalty shall be recoverable by the promoters of the undertaking by action in any of the superior

Penalty on sheriff and jury for default.

courts; and if any person summoned and returned upon any jury under this or the special act, whether common or special, do not appear, or if appearing, he refuse to make oath, or in any other manner unlawfully neglect his duty, he shall, unless he show reasonable excuse to the satisfaction of the sheriff, forfeit a sum not exceeding ten pounds, and every such penalty payable by a sheriff or juryman shall be applied in satisfaction of the costs of the inquiry, so far as the same will extend; and, in addition to the penalty hereby imposed, every such juryman shall be subject to the same regulations, pains and penalties as if such jury had been returned for the trial of an issue joined in any of the superior courts.

Penalty on witnesses making default.

45. If any person duly summoned to give evidence upon any such inquiry, and to whom a tender of his reasonable expenses shall have been made, fail to appear at the time and place specified in the summons without sufficient cause, or if any person, whether summoned or not, who shall appear as a witness refuse to be examined on oath touching the subject matter in question, every person so offending shall forfeit to the party aggrieved a sum not exceeding ten pounds.

Notice of inquiry.

46. Not less than ten days' notice of the time and place of the inquiry shall be given in writing by the promoters of the undertaking to the other party.

Default of appearance of claimant

47. If the party claiming compensation shall not appear at the time appointed for the inquiry, such inquiry shall not be further proceeded in, but the compensation to be paid shall be such as shall be ascertained by a surveyor appointed by two justices in manner hereinafter provided.

Jury to be sworn.

48. Before the jury proceed to inquire of and assess the compensation or damage in respect of which their verdict is to be given, they shall make oath that they will truly and faithfully inquire of and assess such compensation or damage, and the sheriff shall administer such oaths, as well as the oaths of all persons called upon to give evidence.

Separate assessment of purchase-money and compensation for damage by severance.

See also s. 63.

49. Where such inquiry shall relate to the value of lands to be purchased, and also to compensation claimed for injury done or to be done to the lands held therewith, the jury shall deliver their verdict separately for the sum of money to be paid for the purchase of the lands required for the works, or of any interest therein belonging to the party with whom the question of disputed compensation shall have arisen, or which, under the provisions herein contained, he is enabled to sell or convey, and for the sum of money to be paid by way of compensation for the damage (if any) to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such lands by the exercise of the powers of this or the special act, or any act incorporated therewith.

dict and judgment to be records.

50. The sheriff before whom such inquiry shall be held shall give judgment for the purchase-money or compensation assessed by such jury; and the verdict and judgment shall be signed by the sheriff, and being so signed shall be kept by the clerk of the peace among the records of the general or quarter sessions of the county in which the lands or any part thereof shall be situate in respect of which such purchase-money or compensation shall have been awarded; and such verdicts and judgments shall be deemed records, and the same or true copies thereof shall be good evidence in all courts and elsewhere, and all persons may inspect the said verdicts and judgments, and may have copies thereof or extracts therefrom, on paying for each inspection thereof one shilling, and for every one hundred words copied or extracted therefrom sixpence, which copies or extracts the clerk of the peace is hereby required to make out, and to sign and certify the same to be true copies.

Inspection of verdicts.

**51.** On every such inquiry before a jury, where the verdict of the jury shall be given for a greater sum than the sum previously offered by the promoters of the undertaking, all the costs of such inquiry shall be borne by the promoters of the undertaking; but if the verdict of the jury be given for the same or a less sum than the sum previously offered by the promoters of the undertaking, or if the owner of the land shall have failed to appear at the time and place appointed for the inquiry, having received due notice thereof, one half of the costs of summoning, impannelling and returning the jury, and of taking the inquiry and recording the verdict and judgment thereon, in case such verdict shall be taken, shall be defrayed by the owner of the lands, and the other half by the promoters of the undertaking, and each party shall bear his own costs, other than as aforesaid, incident to such inquiry. Costs of inquiry. [See vol. I. ch. VI. s. 4.]

**52.** The costs of any such inquiry shall, in case of difference, be settled by one of the Masters of the Court of Queen's Bench of England or Ireland, according as the lands are situate, on the application of either party, and such costs shall include all reasonable costs, charges and expenses incurred in summoning, impannelling and returning the jury, taking the inquiry, the attendance of witnesses, the employment of counsel and attornies, recording the verdict and judgment thereon, and otherwise incident to such inquiry. Costs, settlement of, by master.

**53.** If any such costs shall be payable by the promoters of the undertaking, and if within seven days after demand such costs be not paid to the party entitled to receive the same, they shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly; and if any such costs shall be payable by the owner of the lands or of any interest therein, the same may be deducted and retained by the promoters of the undertaking out of any money awarded by the jury to such owner, or determined by the valuation of a surveyor under the provision hereinafter contained; and the payment or deposit of the remainder, if any, of such money shall be deemed payment and satisfaction of the whole thereof, or if such costs shall exceed the amount of the money so awarded or determined, the excess shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly. Payment of costs.

**54.** If either party desire any such question of disputed compensation as aforesaid to be tried before a special jury, such question shall be so tried, provided that notice of such desire, if coming from the other party, be given to the promoters of the undertaking before they have issued their warrant to the sheriff; and for that purpose the promoters of the undertaking shall by their warrant to the sheriff require him to nominate a special jury for such trial; and thereupon the sheriff shall, as soon as conveniently may be after the receipt by him of such warrant, summon both the parties to appear before him, by themselves or their attornies, at some convenient time and place appointed by him for the purpose of nominating a special jury (not being less than five nor more than eight days from the service of such summons); and at the place and time so appointed the sheriff shall proceed to nominate and strike a special jury, in the manner in which such juries shall be required by the laws for the time being in force to be nominated or struck by the proper officers of the superior courts, and the sheriff shall appoint a day, not later than the eighth day after the striking of such jury, for the parties or their agents to appear before him to reduce the number of such jury, and thereof shall give four days' notice to the parties; and on the day so appointed the sheriff shall proceed to reduce the said special jury to the number of twenty, in the manner used and accustomed by the proper officers of the superior courts. Special jury at request of either party. Nomination of special jury.

Twelve special jurors. Challenge. Tales.

55. The special jury on such inquiry shall consist of twelve of the said twenty who shall first appear on their names being called over, the parties having their lawful challenges against any of the said jurymen; and if a full jury do not appear, or if after such challenges a full jury do not remain, then, upon the application of either party, the sheriff shall add to the list of such jury the names of any other disinterested persons qualified to act as special or common jurymen, who shall not have been previously struck off the aforesaid list, and who may then be attending the court, or can speedily be procured, so as to complete such jury, all parties having their lawful challenges against such persons; and the sheriff shall proceed to the trial and adjudication of the matters in question by such jury, and such trial shall be attended in all respects with the like incidents and consequences, and the like penalties shall be applicable, as hereinbefore provided in the case of a trial by common jury.

Other inquiries before same jury.

56. Any other inquiry than that for the trial of which such special jury may have been struck and reduced as aforesaid may be tried by such jury, provided the parties thereto respectively shall give their consent to such trial.

Jurors need attend but once a year.

57. No juryman shall, without his consent, be summoned or require to attend any such proceeding as aforesaid more than once in any year.

Compensation to absent parties to be determined by surveyor.

58. The purchase-money or compensation to be paid for any lands to be purchased or taken by the promoters of the undertaking from any party who, by reason of absence from the kingdom, is prevented from treating, or who cannot after diligent inquiry be found, or who shall not appear at the time appointed for the inquiry before the jury as hereinbefore provided for, after due notice thereof, and the compensation to be paid for any permanent injury to such lands, shall be such as shall be determined by the valuation of such able practical surveyor as two justices shall nominate for that purpose as hereinafter mentioned.

Justices to nominate surveyor.

59. Upon application by the promoters of the undertaking to two justices, and upon such proof as shall be satisfactory to them that any such party is, by reason of absence from the kingdom, prevented from treating, or cannot after diligent inquiry be found, or that any such party failed to appear on such inquiry before a jury as aforesaid, after due notice to him for that purpose, such justices shall, by writing under their hands, nominate an able practical surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

Declaration by surveyor.

60. Before such surveyor shall enter upon the duty of making such valuation as aforesaid, he shall, in the presence of such justices or one of them, make and subscribe the declaration following at the foot of such nomination; (that is to say),

"I, *A. B.*, do solemnly and sincerely declare, That I will faithfully, impartially and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me. *A. B.*

"Made and subscribed in the presence of ."

And if any surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanor.

Nomination, &c., to be preserved and produced, if required.

61. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the promoters of the undertaking, and they shall at all times produce the said valuation and other documents, on demand, to the owner

of the lands comprised in such valuation, and to all other parties interested therein.

**62.** All the expenses of and incident to every such valuation shall be borne by the promoters of the undertaking. Expenses of valuation.

**63.** In estimating the purchase-money or compensation to be paid by the promoters of the undertaking, in any of the cases aforesaid, regard shall be had by the justices, arbitrators or surveyors, as the case may be, not only to the value of the land to be purchased or taken by the promoters of the undertaking, but also to the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such other lands by the exercise of the powers of this or the special act, or any act incorporated therewith. Damage by severance to be regarded. See also sect. 49, and vol. I, p. 209.

**64.** When the compensation payable in respect of any lands, or any interest therein, shall have been ascertained by the valuation of a surveyor, and deposited in the Bank under the provisions herein contained, by reason that the owner of, or party entitled to convey, such lands or such interest therein as aforesaid, could not be found or was absent from the kingdom, if such owner or party shall be dissatisfied with such valuation, it shall be lawful for him, before he shall have applied to the Court of Chancery for payment or investment of the monies so deposited under the provisions herein contained, by notice in writing to the promoters of the undertaking, to require the question of such compensation to be submitted to arbitration, and thereupon the same shall be so submitted accordingly, in the same manner as in other cases of disputed compensation hereinbefore authorized or required to be submitted to arbitration. Where compensation to absent party determined by surveyor, party may have arbitration.

**65.** The question to be submitted to the arbitrators in the case last aforesaid shall be, whether the said sum so deposited as aforesaid by the promoters of the undertaking was a sufficient sum, or whether any and what further sum ought to be paid or deposited by them. Question for arbitrators.

**66.** If the arbitrators shall award that a further sum ought to be paid or deposited by the promoters of the undertaking, they shall pay or deposit, as the case may require, such further sum within fourteen days after the making of such award, or, in default thereof, the same may be enforced by attachment, or recovered with costs by action or suit in any of the superior courts. If further sum awarded, promoters to pay within 14 days.

**67.** If the arbitrators shall determine that the sum so deposited was sufficient, the costs of and incident to such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators; but, if the arbitrators shall determine that a further sum ought to be paid or deposited by the promoters of the undertaking, all the costs of and incident to the arbitration shall be borne by the promoters of the undertaking. Costs of the arbitration.

**68.** If any party shall be entitled to any compensation in respect of any lands, or of any interest therein, which shall have been taken for or injuriously affected by the execution of the works, and for which the promoters of the undertaking shall not have made satisfaction under the provisions of this or the special act, or any act incorporated therewith, and if the compensation claimed in such case shall exceed the sum of fifty pounds, such party may have the same settled either by arbitration or by the verdict of a jury, as he shall think fit; and if such party desire to have the same settled by arbitration, it shall be lawful for him to give notice in writing to the promoters of the undertaking of such his desire, stating in such notice the nature of the interest in such lands in respect of which he claims compensation, and the amount of the compensation so claimed therein; and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and shall enter into a Compensation, where more than 50*l.* claimed, to be settled by arbitration or jury, at option of claimant. [See vol. I. ch. V. s. 2.] Twenty-one days' grace.

written agreement for that purpose within twenty-one days after the receipt of any such notice from any party so entitled, the same shall be settled by arbitration in the manner herein provided, or, if the party so entitled as aforesaid desire to have such question of compensation settled by a jury, it shall be lawful for him to give notice in writing of such his desire to the promoters of the undertaking, stating such particulars as aforesaid, and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and enter into a written agreement for that purpose, they shall, within twenty-one days after the receipt of such notice issue their warrant to the sheriff to summon a jury for settling the same in the manner herein provided, and, in default thereof, they shall be liable to pay to the party so entitled as aforesaid the amount of compensation so claimed, and the same may be recovered by him, with costs, by action in any of the superior courts.

Action for compensation.

*Application of Compensation coming to Parties under Disability.*

And with respect to the purchase-money or compensation coming to parties having limited interests, or prevented from treating, or not making title, be it enacted as follows :—

Deposit in bank of sums exceeding 200*l*.

[See vol I. ch. VII. s. 1]

**69.** If the purchase-money or compensation which shall be payable in respect of any lands, or any interest therein, purchased or taken by the promoters of the undertaking from any corporation, tenant for life or in tail, married woman seised in her own right or entitled to dower, guardian, committee of lunatic or idiot, trustee, executor, or administrator, or person having a partial or qualified interest only in such lands, and not entitled to sell or convey the same, except under the provisions of this or the special act, or the compensation to be paid for any permanent damage to any such lands, amount to or exceed the sum of two hundred pounds, the same shall be paid into the Bank, in the name and with the privity of the *Accountant-General of the Court of Chancery in England* (*r*) if the same relate to lands in England or Wales, or the Accountant-General of the Court of Exchequer in Ireland if the same relate to lands in Ireland, to be placed to the account there of such Accountant-General *ex parte* the promoters of the undertaking (describing them by their proper name), in the matter of the special act (citing it), pursuant to the method prescribed by any act for the time being in force for regulating monies paid into the said courts ; and such monies shall remain so deposited until the same be applied to some one or more of the following purposes ; (that is to say),

Application of deposit.

Discharge of debt.

In the purchase or redemption of the land-tax, or the discharge of any debt or incumbrance affecting the land in respect of which such money shall have been paid, or affecting other lands settled therewith to the same or the like uses, trusts or purposes ; or,

Purchase of lands.

In the purchase of other lands to be conveyed, limited and settled upon the like uses, trusts and purposes, and in the same manner, as the lands in respect of which such money shall have been paid stood settled ; or,

Removal of buildings.

If such money shall be paid in respect of any buildings taken under the authority of this or the special act, or injured by the proximity of the works, in removing or replacing such buildings, or substituting others in their stead, in such manner as the Court of Chancery shall direct ; or,

In payment to any party becoming absolutely entitled to such money.

Order for application

**70.** Such money may be so applied as aforesaid upon an order of the Court of Chancery in England, or the Court of Exchequer in Ireland, made on the petition of the party who would have been entitled to the rents and

(*r*) Now Paymaster-General. See note (*s*) infra.

profits of the lands in respect of which such money shall have been deposited, and, until the money can be so applied, it may, upon the like order, be invested by the said *Accountant-General* (r), in the purchase of Three per Centum Consolidated or Three per Centum Reduced Bank Annuities, or in Government or real securities, and the interest, dividends and annual proceeds thereof paid to the party who would for the time being have been entitled to the rents and profits of the lands.

Interim investment.

**71.** If such purchase-money or compensation shall not amount to the sum of two hundred pounds, and shall exceed the sum of twenty pounds, the same shall either be paid into the Bank, and applied in the manner hereinbefore directed with respect to sums amounting to or exceeding two hundred pounds, or the same may lawfully be paid to two trustees, to be nominated by the parties entitled to the rents or profits of the lands in respect whereof the same shall be payable, such nomination to be signified by writing under the hands of the party so entitled; and in case of the coverture, infancy, lunacy or other incapacity of the parties entitled to such moneys, such nomination may lawfully be made by their respective husbands, guardians, committees or trustees; but such last-mentioned application of the monies shall not be made unless the promoters of the undertaking approve thereof, and of the trustees named for the purpose; and the money so paid to such trustees, and the produce arising therefrom, shall be by such trustees applied in the manner hereinbefore directed with respect to money paid into the Bank, but it shall not be necessary to obtain any order of the court for that purpose.

Sums from 20*l.* to 200*l.* to be deposited or paid to trustees

**72.** If such money shall not exceed the sum of twenty pounds, the same shall be paid to the parties entitled to the rents and profits of the lands in respect whereof the same shall be payable, for their own use and benefit, or, in case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such parties, then such money shall be paid, for their use, to the respective husbands, guardians, committees or trustees of such persons.

Sums not exceeding 20*l.* to be paid to parties.

**73.** All sums of money exceeding twenty pounds, which may be payable by the promoters of the undertaking in respect of the taking, using or interfering with any lands under a contract or agreement with any person who shall not be entitled to dispose of such lands, or of the interest therein contracted to be sold by him, absolutely for his own benefit, shall be paid into the Bank, or to trustees in manner aforesaid; and it shall not be lawful for any contracting party not entitled as aforesaid to retain to his own use any portion of the sums so agreed or contracted to be paid for or in respect of the taking, using or interfering with any such lands, or in lieu of bridges, tunnels or other accommodation works, or for assenting to or not opposing the passing of the bill authorizing the taking of such lands; but all such monies shall be deemed to have been contracted to be paid for and on account of the several parties interested in such lands, as well in possession as in remainder, reversion or expectancy: Provided always, that it shall be in the discretion of the Court of Chancery in England or the Court of Exchequer in Ireland, or the said trustees, as the case may be, to allot to any tenant for life, or for any other partial or qualified estate, for his own use, a portion of the sum so paid into the Bank, or to such trustees as aforesaid, as compensation for any injury, inconvenience or annoyance which he may be considered to sustain, independently of the actual value of the lands to be taken, and of the damage occasioned to the lands held therewith, by reason of the taking of such lands and the making of the works.

All sums above 20*l.* payable under contract with persons not absolutely entitled to be paid into bank or to trustees.

Tenant for life, compensation to.

**74.** Where any purchase-money or compensation paid into the Bank under the provisions of this or the special act shall have been paid in respect

Leases or reversions.

(r) New Paymaster-General. See note (s) infra.

of any lease for a life or lives or years, or for a life or lives and years, or any estate in lands less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, it shall be lawful for the Court of Chancery in England or the Court of Exchequer in Ireland, on the petition of any party interested in such money, to order that the same shall be laid out, invested, accumulated and paid in such manner as the said court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate or reversion in respect of which such money shall have been paid, or as near thereto as may be.

Upon deposit being made, owners to convey, or lands to vest in promoters upon a deed poll being executed.

**75.** Upon deposit in the Bank in manner hereinbefore provided of the purchase-money or compensation agreed or awarded to be paid in respect of any lands purchased or taken by the promoters of the undertaking under the provisions of this or the special act, or any act incorporated therewith, the owner of such lands, including in such term all parties by this act enabled to sell or convey lands, shall, when required so to do by the promoters of the undertaking, duly convey such lands to the promoters of the undertaking, or as they shall direct; and in default thereof, or if he fail to adduce a good title to such lands to their satisfaction, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed-poll under their common seal if they be a corporation, or, if they be not a corporation, under the hands and seals of the promoters, or any two of them, containing a description of the lands in respect of which such default shall be made, and reciting the purchase or taking thereof by the promoters of the undertaking, and the names of the parties from whom the same were purchased or taken and the deposit made in respect thereof, and declaring the fact of such default having been made, and such deed-poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein; and thereupon all the estate and interest in such lands of or capable of being sold and conveyed by the party between whom and the promoters of the undertaking such agreement shall have been come to, or as between whom and the promoters of the undertaking such purchase-money or compensation shall have been determined by a jury, or by arbitrators, or by a surveyor appointed by two justices as herein provided, and shall have been deposited as aforesaid, shall vest absolutely in the promoters of the undertaking, and as against such parties, and all parties on behalf of whom they are hereinbefore enabled to sell and convey, the promoters of the undertaking shall be entitled to immediate possession of such lands.

Where parties refuse to convey, or do not show title or cannot be found, the purchase-money to be deposited in the Bank.

**76.** If the owner of any such lands purchased or taken by the promoters of the undertaking, or of any interest therein, on tender of the purchase-money or compensation either agreed or awarded to be paid in respect thereof, refuse to accept the same, or neglect or fail to make out a title to such lands or to the interest therein claimed by him, to the satisfaction of the promoters of the undertaking, or if he refuse to convey or release such lands as directed by the promoters of the undertaking, or if any such owner be absent from the kingdom, or cannot after diligent inquiry be found, or fail to appear on the inquiry before a jury, as herein provided for, it shall be lawful for the promoters of the undertaking to deposit the purchase-money or compensation payable in respect of such lands, or any interest therein, in the Bank, in the name and with the privity of the *Accountant-General of the Court of Chancery in England* (s) or the Court of Exchequer

(s) Now her Majesty's Paymaster-General. See Chancery Funds Act, 1872 (35 & 36 Vict. c. 44), s. 4, which abolished the office of Accountant-General of the Court of Chancery.

in Ireland, to be placed, except in the cases herein otherwise provided for, to his account there, to the credit of the parties interested in such lands (describing them so far as the promoters of the undertaking can do), subject to the control and disposition of the said court.

**77.** Upon any such deposit of money as last aforesaid being made, the cashier of the Bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money, specifying therein for what and for whose use (described as aforesaid) the same shall have been received, and in respect of what purchase the same shall have been paid in; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll under their common seal if they be a corporation, or, if they be not a corporation, under the hands and seals of the said promoters, or any two of them, containing a description of the lands in respect whereof such deposit shall have been made, and declaring the circumstances under which and the names of the parties to whose credit such deposit shall have been made, and such deed-poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein; and thereupon all the estate and interest in such lands of the parties for whose use and in respect whereof such purchase-money or compensation shall have been deposited shall vest absolutely in the promoters of the undertaking, and as against such parties they shall be entitled to immediate possession of such lands.

Upon deposit being made, a receipt to be given, and the lands to vest upon a deed-poll being executed.

**78.** Upon the application by petition of any party making claim to the money so deposited as last aforesaid, or any part thereof, or to the lands in respect whereof the same shall have been so deposited, or any part of such lands, or any interest in the same, the said Court of Chancery in England or the Court of Exchequer in Ireland may, in a summary way, as to such court shall seem fit, order such money to be laid out or invested in the public funds, or may order distribution thereof, or payment of the dividends thereof, according to the respective estates, titles or interest of the parties making claim to such money or lands, or any part thereof, and may make such other order in the premises as to such court shall seem fit.

Petition to court for application of deposit.

**79.** If any question arise respecting the title to the lands in respect whereof such monies shall have been so paid or deposited as aforesaid, the parties respectively in possession of such lands, as being the owners thereof, or in receipt of the rents of such lands, as being entitled thereto at the time of such lands being purchased or taken, shall be deemed to have been lawfully entitled to such lands, until the contrary be shown to the satisfaction of the court; and, unless the contrary be shown as aforesaid, the parties so in possession, and all parties claiming under them, or consistently with their possession, shall be deemed entitled to the money so deposited, and to the dividends or interest of the annuities or securities purchased therewith, and the same shall be paid and applied accordingly.

Party in possession to be deemed owner.

**80.** In all cases of money deposited in the Bank under the provisions of this or the special act, or an act incorporated therewith, except where such monies shall have been so deposited by reason of the wilful refusal of any party entitled thereto to receive the same, or to convey or release the lands in respect whereof the same shall be payable, or by reason of the wilful neglect of any party to make out a good title to the land required, it shall be lawful for the Court of Chancery in England or the Court of Exchequer in Ireland to order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the promoters of the undertaking; (that is to say), the costs of the purchase or taking of the lands, or which shall have been incurred in consequence thereof, other than such costs as are herein otherwise provided for, and the

Costs in cases of money deposited

[See vol. I. ch. VII. s. 2]

What costs to be paid by promoters

costs of the investment of such monies in government or real securities, and of the re-investment thereof in the purchase of other lands, and also the costs of obtaining the proper orders for any of the purposes aforesaid, and of the orders for the payment of the dividends, and interest of the securities upon which such monies shall be invested, and for the payment out of court of the principal of such monies, or of the securities whereon the same shall be invested, and of all proceedings relating thereto, except such as are occasioned by litigation between adverse claimants: Provided always, that the costs of one application only for re-investment in land shall be allowed, unless it shall appear to the Court of Chancery in England or the Court of Exchequer in Ireland that it is for the benefit of the parties interested in the said monies that the same should be invested in the purchase of lands, in different sums and at different times, in which case it shall be lawful for the court, if it think fit, to order the costs of any such investments to be paid by the promoters of the undertaking.

*Conveyances.*

And with respect to the Conveyances of Lands, be it enacted as follows:—

Form of conveyances.

**81.** Conveyances of lands to be purchased under the provisions of this or the special act, or any act incorporated therewith, may be according to the forms in the Schedules (A.) and (B.) respectively to this act annexed,* or as near thereto as the circumstances of the case will admit, or by deed in any other form which the promoters of the undertaking may think fit; and all conveyances made according to the forms in the said schedules, or as near thereto as the circumstances of the case will admit, shall be effectual to vest the lands thereby conveyed in the promoters of the undertaking, and shall operate to merge all terms of years attendant by express declaration, or by construction of law, on the estate or interest so thereby conveyed, and to bar and to destroy all such estates tail, and all other estates, rights, titles, remainders, reversions, limitations, trusts, and interests whatsoever, of and in the lands comprised in such conveyances which shall have been purchased or compensated for by the consideration therein mentioned: but, although terms of years be thereby merged, they shall in equity afford the same protection as if they had been kept on foot, and assigned to a trustee for the promoters of the undertaking to attend the reversion and inheritance (*t*).

* Pages 95, 96.

Costs of conveyances.

**82.** The costs of all such conveyances shall be borne by the promoters of the undertaking, and such costs shall include all charges and expenses incurred, on the part as well of the seller as of the purchaser, of all conveyances and assurances of any such lands, and of any outstanding terms or interests therein, and of deducing, evidencing, and verifying the title to such lands, terms or interests, and of making out and furnishing such abstracts and attested copies as the promoters of the undertaking may require, and all other reasonable expenses incident to the investigation, deduction and verification of such title.

Taxation of costs of conveyances.

**83.** If the promoters of the undertaking and the party entitled to any such costs shall not agree as to the amount thereof, such costs shall be taxed by one of the taxing masters of the Court of Chancery, or by a master in chancery in Ireland, upon an order of the same court, to be obtained upon petition in a summary way by either of the parties; and the promoters of the undertaking shall pay what the said master shall certify to be due in respect of such costs to the party entitled thereto, or, in default thereof, the same may be recovered in the same way as any other costs payable under an order of the said court, or the same may be recovered by

(*t*) And see 8 & 9 Vict. c. 112.

distress in the manner hereinbefore provided in other cases of costs; and the expense of taxing such costs shall be borne by the promoters of the undertaking, unless upon such taxation one-sixth part of the amount of such costs shall be disallowed, in which case the costs of such taxation shall be borne by the party whose costs shall be so taxed, and the amount thereof shall be ascertained by the said master, and deducted by him accordingly in his certificate of such taxation.

And with respect to the Entry upon Lands by the promoters of the undertaking, be it enacted as follows:— *Entry on Lands.*

**84.** The promoters of the undertaking shall not, except by consent of the owners and occupiers, enter upon any lands which shall be required to be purchased or permanently used for the purposes and under the powers of this or the special act, until they shall either have paid to every party having any interest in such lands, or deposited in the Bank, in the manner herein mentioned,[1] the purchase-money or compensation agreed or awarded to be paid to such parties respectively for their respective interests therein: Provided always, that, for the purpose merely of surveying and taking levels of such lands, and of probing or boring to ascertain the nature of the soil, and of setting out the line of the works, it shall be lawful for the promoters of the undertaking, after giving not less than three nor more than fourteen days' notice to the owners or occupiers thereof, to enter upon such lands without previous consent, making compensation for any damage thereby occasioned to the owners or occupiers thereof (*u*).

Payment or deposit to be made before entry.

[1] Sects 76, 77.

Saving for surveys.

**85.** Provided also, that if the promoters of the undertaking shall be desirous of entering upon and using any such lands before an agreement shall have been come to or an award made, or verdict given for the purchase-money or compensation to be paid by them in respect of such lands, it shall be lawful for the promoters of the undertaking to deposit in the Bank by way of security, as hereinafter mentioned, either the amount of purchase-money or compensation claimed by any party interested in or entitled to sell and convey such lands, and who shall not consent to such entry, or such a sum as shall, by a surveyor appointed by *two justices in the manner hereinbefore provided* (*x*) *in the case of parties who cannot be found* (*y*), be determined to be the value of such lands, or of the interest therein which such party is entitled to or enabled to sell and convey; and also to give to such party a bond, under the common seal of the promoters if they be a corporation, or, if they be not a corporation, under the hands and seals of the said promoters, or any two of them, with two sufficient sureties to be approved of by *two justices* in case the parties differ, in a penal sum equal to the sum so to be deposited, conditioned for payment to such party, or for deposit in the Bank for the benefit of the parties interested in such lands, as the case may require, under the provisions herein contained, of all such purchase-money or compensation, as may in manner hereinbefore provided be determined to be payable by the promoters of the undertaking in respect of the lands so entered upon, together with interest thereon, at the rate of five pounds per centum per annum, from the time of entering on such lands, until such purchase-money or compensation shall be paid to such party, or deposited in the Bank for the benefit of the parties interested in such lands, under the provisions herein contained; and upon such deposit by way of security being made as aforesaid, and such bond being delivered or tendered to such non-consenting party as aforesaid, it shall be

Entry before purchase on making deposit, and giving bond. [See vol. I. ch. IV. s. 7.]

(*u*) See also 8 & 9 Vict. c. 20, s. 24, post.

(*x*) Ante, sect. 59.

(*y*) The Board of Trade is substituted for two justices by 30 & 31 Vict. c. 127, s. 36, post; and see ibid. as to notice to be given by the company of their intention to apply to the board.

lawful for the promoters of the undertaking to enter upon and use such lands, without having first paid or deposited the purchase-money or compensation in other cases required to be paid or deposited by them before entering upon any lands to be taken by them under the provisions of this or the special act.

Deposit in name of Paymaster-General.

Cashier to give receipt.

**86.** The money so to be deposited as last aforesaid shall be paid into the Bank in the name and with the privity of *the Accountant-General of the Court of Chancery in England* (*z*) or the Court of Exchequer in Ireland, to be placed to his account there to the credit of the parties interested in or entitled to sell and convey the lands so to be entered upon, and who shall not have consented to such entry, subject to the control and disposition of the said court; and upon such deposit being made, the cashier of the Bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money, specifying therein for what purpose, and to whose credit, the same shall have been paid in.

Deposit to remain as security, and may be invested by order of Court.

**87.** The money so deposited as last aforesaid shall remain in the Bank by way of security to the parties whose lands shall so have been entered upon, for the performance of the condition of the bond to be given by the promoters of the undertaking, as hereinbefore mentioned, and the same may, on the application by petition of the promoters of the undertaking, be ordered to be invested in bank annuities or government securities, and accumulated; and upon the condition of such bond being fully performed, it shall be lawful for the Court of Chancery in England, or the Court of Exchequer in Ireland, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the promoters of the undertaking, or, if such condition shall not be fully performed, it shall be lawful for the said court to order the same to be applied in such manner as it shall think fit for the benefit of the parties for whose security the same shall so have been deposited.

Repayment of deposit.

Payment of deposit into Bank when office of Accountant-General is closed.

**88.** If at any time the company be unable, by reason of the closing of the office of the *Accountant-General of the Court of Chancery in England*, or the Court of Exchequer in Ireland, to obtain his authority in respect of the payment of any sum of money so authorized to be deposited in the Bank by way of security as aforesaid, it shall be lawful for the company to pay into the Bank, to the credit of such party or matter as the case may require (subject nevertheless to being dealt with as hereinafter provided, and not otherwise), such sum of money as the promoters of the undertaking shall, by some writing signed by their secretary or solicitors for the time being addressed to the governor and company of the Bank in that behalf, request, and upon any such payment being made, the cashier of the Bank shall give a certificate thereof; and in every such case, within ten days after the reopening of the said *Accountant-General's* Office, the solicitor for the promoters of the undertaking shall there bespeak the direction for the payment of such sum into the name of the *Accountant-General*, and, upon production of such direction at the Bank of England, the money so previously paid in shall be placed to the credit of the said *Accountant-General* accordingly, and the receipt for the said payment be given to the party making the same in the usual way, for the purpose of being filed at the Report Office (*a*).

Penalty for entering upon lands, without consent, before payment of purchase-money.

**89.** If the promoters of the undertaking, or any of their contractors, shall, except as aforesaid, wilfully enter upon and take possession of any lands which shall be required to be purchased or permanently used for the

(*z*) Now Paymaster-General; see p. 76, ante, note (*s*).

(*a*) The office of Accountant-General is abolished; see p. 76, ante. The Chancery Funds Act, 1872, contains no words applicable to this section, which would seem to be obsolete. The Paymaster-General's office, however, will, it is believed, be found open whenever the Bank of England is.

purposes of the special act, without such consent as aforesaid, or without having made such payment for the benefit of the parties interested in the lands, or such deposit by way of security as aforesaid, the promoters of the undertaking shall forfeit to the party in possession of such lands the sum of ten pounds over and above the amount of any damage done to such lands by reason of such entry and taking possession as aforesaid, such penalty and damage respectively to be recovered before two justices; and if the promoters of the undertaking, or their contractors, shall, after conviction in such penalty as aforesaid, continue in unlawful possession of any such lands, the promoters of the undertaking shall be liable to forfeit the sum of twenty-five pounds for every day they or their contractors shall so remain in possession as aforesaid, such penalty to be recoverable by the party in possession of such lands with costs, by action in any of the superior courts: Provided always, that nothing herein contained shall be held to subject the promoters of the undertaking to the payment of any such penalties as aforesaid, if they shall *bonâ fide*, and without collusion, have paid the compensation agreed or awarded to be paid in respect of the said lands to any person whom the promoters of the undertaking may have reasonably believed to be entitled thereto, or shall have deposited the same in the Bank for the benefit of the parties interested in the lands, or made such deposit, by way of security, in respect thereof, as hereinbefore mentioned, although such person may not have been legally entitled thereto.

**90.** On the trial of any action for any such penalty as aforesaid, the decision of the justices under the provisions hereinbefore contained shall not be held conclusive as to the right of entry on any such lands by the promoters of the undertaking. *Decision of justices not conclusive as to right of entry.*

**91.** If in any case in which, according to the provisions of this or the special act, or any act incorporated therewith, the promoters of the undertaking are authorized to enter upon and take possession of any lands required for the purposes of the undertaking, the owner or occupier of any such lands, or any other person, refuse to give up the possession thereof, or hinder the promoters of the undertaking from entering upon or taking possession of the same, it shall be lawful for the promoters of the undertaking to issue their warrant to the sheriff to deliver possession of the same to the person appointed in such warrant to receive the same; and, upon the receipt of such warrant, the sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the promoters of the undertaking from the compensation, if any, then payable by them to such party; or, if no such compensation be payable to such party, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and, upon application to any justice for that purpose, he shall issue his warrant accordingly. *Refusal to deliver possession of lands. Warrant of sheriff.*

**92.** And be it enacted, that no party shall at any time be required to sell or convey to the promoters of the undertaking a part only of any house, or other building or manufactory, if such party be willing and able to sell and convey the whole thereof. *Part of house, sale of.* [See vol. I. ch. IV. s. 4.]

*Intersected Lands.*

And with respect to small Portions of intersected Land, be it enacted as follows:—

**93.** If any lands, not being situate in a town or built upon shall be so cut through and divided by the works as to leave, either on both sides or on one side thereof, a less quantity of land than half a statute acre, and if *Owners of intersected lands may insist on sale.*

the owner of such small parcel of land require the promoters of the undertaking to purchase the same along with the other land required for the purposes of the special act, the promoters of the undertaking shall purchase the same accordingly, unless the owner thereof have other land adjoining to that so left into which the same can be thrown, so as to be conveniently occupied therewith; and if such owner have any other land so adjoining, the promoters of the undertaking shall, if so required by the owner, at their own expense, throw the piece of land so left into such adjoining land, by removing the fences and levelling the sites thereof, and by soiling the same in a sufficient and workmanlike manner.

Promoters may insist on purchase where expense of bridges, &c., exceeds value.

**94.** If any such land shall be so cut through and divided as to leave on either side of the works a piece of land of less extent than half a statute acre, or of less value than the expense of making a bridge, culvert, or such other communication between the land so divided as the promoters of the undertaking are, under the provisions of this or the special act, or any act incorporated therewith, compellable to make, and if the owner of such lands have not other lands adjoining such piece of land, and require the promoters of the undertaking to make such communication, then the promoters of the undertaking may require such owner to sell to them such piece of land, and any dispute as to the value of such piece of land, or as to what would be the expense of making such communication, shall be ascertained as herein provided for cases of disputed compensation; and on the occasion of ascertaining the value of the land required to be taken for the purposes of the works, the jury or the arbitrators, as the case may be, shall, if required by either party, ascertain, by their verdict or award, the value of any such severed piece of land, and also what would be the expense of making such communication.

*Copyholds.*

And with respect to Copyhold Lands, be it enacted as follows:—

Conveyance of copyhold lands to be inrolled.

**95.** Every conveyance, to the promoters of the undertaking, of any lands which shall be of copyhold or customary tenure, or of the nature thereof, shall be entered on the rolls of the manor of which the same shall be held or parcel; and on payment to the steward of such manor of such fees as would be due to him on the surrender of the same lands to the use of a purchaser thereof, he shall make such inrolment; and every such conveyance, when so inrolled, shall have the like effect, in respect of such copyhold or customary lands, as if the same had been of freehold tenure; nevertheless, until such lands shall have been enfranchised by virtue of the powers hereinafter contained, they shall continue subject to the same fines, rents, heriots and services as were theretofore payable and of right accustomed.

Fees of steward.

Copyhold lands to be enfranchised.

**96.** Within three months after the inrolment of the conveyance of any such copyhold or customary lands, or within one month after the promoters of the undertaking shall enter upon and make use of the same for the purposes of the works, whichever shall first happen, or if more than one parcel of such lands holden of the same manor shall have been taken by them, then, within one month after the last of such parcels shall have been so taken or entered on by them, the promoters of the undertaking shall procure the whole of the lands holden of such manor so taken by them to be enfranchised, and for that purpose shall apply to the lord of the manor whereof such lands are holden to enfranchise the same, and shall pay to him such compensation in respect thereof as shall be agreed upon between them and him; and if the parties fail to agree respecting the amount of the compensation to be paid for such enfranchisement, the same shall be determined as in other cases of disputed compensation; and in estimating such compensation, the loss in respect to the fines, heriots, and other services payable on death, descent or alienation, or any other matters which

Compensation for enfranchisement.

would be lost by the vesting of such copyhold or customary lands in the promoters of the undertaking, or by the enfranchisement of the same, shall be allowed for.

Lord of the manor to enfranchise on payment of compensation.

**97.** Upon payment or tender of the compensation so agreed upon or determined, or on deposit thereof in the Bank, in any of the cases hereinbefore in that behalf provided, the lord of the manor whereof such copyhold or customary lands shall be holden shall enfranchise such lands, and the lands so enfranchised shall for ever thereafter be held in free and common soccage; and in default of such enfranchisement by the lord of the manor, or if he fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them, if they think fit, to execute a deed-poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect of the enfranchisement whereof such compensation shall have been deposited as aforesaid shall be deemed to be enfranchised, and shall be for ever thereafter held in free and common soccage.

Apportionment of copyhold rents.

**98.** If any such copyhold or customary lands be subject to any customary or other rent, and part only of the land, subject to any such rent, be required to be taken for the purposes of the special act, the apportionment of such rent may be settled by agreement between the owner of the lands and the lord of the manor, on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement, then the same shall be settled by two justices; and the enfranchisement of any copyhold or customary lands, taken by virtue of this or the special act, or the apportionment of such rents, shall not affect in other respects any custom by or under which any such copyhold or customary lands not taken for such purposes shall be held; and if any of the lands so required be released from any portion of the rents to which they were subject jointly with any other lands, such last-mentioned lands shall be charged with the remainder only of such rents; and with reference to any such apportioned rents, the lord of the manor shall have all the same rights and remedies over the lands to which such apportioned rent shall have been assigned or attributed as he had previously over the whole of the lands subject to such rents for the whole of such rents.

*Common Lands*

And with respect to any such lands being Common or Waste Lands, be it enacted as follows:—

Compensation for common lands, where held of a manor, &c., how to be paid.

**99.** The compensation in respect of the right in the soil of any lands subject to any right of common shall be paid to the lord of the manor, in case he shall be entitled to the same, or to such party, other than the commoners, as shall be entitled to such right in the soil; and the compensation in respect of all other commonable and other rights in or over such lands, including therein any commonable or other rights, to which the lord of the manor may be entitled, other than his right in the soil of such lands, shall be determined and paid and applied in manner hereinafter provided with respect to common lands, the right in the soil of which shall belong to the commoners; and upon payment or deposit in the Bank of the compensation so determined, all such commonable and other rights shall cease and be extinguished.

Lord of the manor, &c., to convey to the promoters of the undertaking, on receiving compensation for his interest.

**100.** Upon payment or tender to the lord of the manor, or such other party as aforesaid, of the compensation which shall have been agreed upon or determined in respect of the right in the soil of any such lands, or on deposit thereof in the Bank in any of the cases hereinbefore in that behalf provided, such lord of the manor, or such other party as aforesaid, shall convey such lands to the promoters of the undertaking, and such conveyance shall have the effect of vesting such lands in the promoters of the

undertaking, in like manner as if such lord of the manor, or such other party as aforesaid, had been seised in fee-simple of such lands at the time of executing such conveyance; and, in default of such conveyance, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed-poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect whereof such last-mentioned compensation shall have been deposited as aforesaid shall vest absolutely in the promoters of the undertaking, and they shall be entitled to immediate possession thereof, subject, nevertheless, to the commonable and other rights theretofore affecting the same, until such rights shall have been extinguished by payment or deposit of the compensation for the same in manner hereinafter provided.

Compensation for common lands when not held of a manor, how to be ascertained.

**101.** The compensation to be paid with respect to any such lands, being common lands, or in the nature thereof, the right to the soil of which shall belong to the commoners, as well as the compensation to be paid for the commonable and other rights in or over common lands the right in the soil whereof shall not belong to the commoners, other than the compensation to the lord of the manor, or other party entitled to the soil thereof, in respect of his right in the soil thereof, shall be determined by agreement between the promoters of the undertaking and a committee of the parties entitled to commonable or other rights in such lands, to be appointed as next hereinafter mentioned.

A meeting of the parties interested to be convened.

**102.** It shall be lawful for the promoters of the undertaking to convene a meeting of the parties entitled to commonable or other rights over or in such lands to be held at some convenient place in the neighbourhood of the lands for the purpose of their appointing a committee to treat with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable or other rights; and every such meeting shall be called by public advertisement, to be inserted once at least in two consecutive weeks in some newspaper circulating in the county or in the respective counties and in the neighbourhood in which such lands shall be situate, the last of such insertions being not more than fourteen nor less than seven days prior to any such meeting; and notice of such meeting shall also, not less than seven days previous to the holding thereof, be affixed upon the door of the parish church where such meeting is intended to be held, or if there be no such church, some other place in the neighbourhood to which notices are usually affixed; and if such lands be parcel or holden of a manor, a like notice shall be given to the lord of such manor.

Meeting to appoint a committee.

**103.** It shall be lawful for the meeting so called to appoint a committee, not exceeding five in number, of the parties entitled to any such rights; and at such meeting the decision of the majority of the persons entitled to commonable rights present shall bind the minority and all absent parties.

Committee to agree with the promoters of the undertaking.

**104.** It shall be lawful for the committee so chosen to enter into an agreement with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable and other rights, and all matters relating thereto, for and on behalf of themselves and all other parties interested therein; and all such parties shall be bound by such agreement; and it shall be lawful for such committee to receive the compensation so agreed to be paid, and the receipt of such committee, or of any three of them, for such compensation, shall be an effectual discharge for the same; and such compensation, when received, shall be apportioned by the committee among the several persons interested therein, according to their respective interests (*b*); but the promoters of the undertaking shall

(*b*) See further 17 & 18 Vict. c. 97, ss. 15—20, post.

not be bound to see to the apportionment or to the application of such compensation, nor shall they be liable for the misapplication or non-application thereof.

**105.** If, upon such committee being appointed, they shall fail to agree with the promoters of the undertaking as to the amount of the compensation to be paid as aforesaid, the same shall be determined as in other cases of disputed compensation. Disputes to be settled as in other cases.

**106.** If, upon being duly convened by the promoters of the undertaking, no effectual meeting of the parties entitled to such commonable or other rights shall take place, or, if taking place, such meeting fail to appoint such committee, the amount of such compensation shall be determined by a surveyor, to be appointed by two justices, as hereinbefore provided in the case of parties who cannot be found. If no committee be appointed, the amount to be determined by a surveyor.

**107.** Upon payment or tender to such committee, or any three of them, or, if there shall be no such committee, then upon deposit in the Bank, in the manner provided in the like case, of the compensation which shall have been agreed upon or determined in respect of such commonable or other rights, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed-poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect of which such compensation shall have been so paid or deposited shall vest in the promoters of the undertaking, freed and discharged from all such commonable or other rights, and they shall be entitled to immediate possession thereof; and it shall be lawful for the Court of Chancery in England or the Court of Exchequer in Ireland, by an order to be made upon petition, to order payment of the money so deposited to a committee to be appointed as aforesaid, or to make such other order in respect thereto, for the benefit of the parties interested, as it shall think fit. Upon payment of compensation payable to commoners, the lands to vest.

And with respect to Lands subject to Mortgage, be it enacted as follows :— *Lands in Mortgage.*

**108.** It shall be lawful for the promoters of the undertaking to purchase or redeem the interest of the mortgagee of any such lands which may be required for the purposes of the special act, and that whether they shall have previously purchased the equity of redemption of such lands or not, and whether the mortgagee thereof be entitled thereto in his own right or in trust for any other party, and whether he be in possession of such lands by virtue of such mortgage or not, and whether such mortgage affect such lands solely, or jointly with any other lands not required for the purposes of the special act ; and, in order thereto, the promoters of the undertaking may pay or tender to such mortgagee the principal and interest due on such mortgage, together with his costs and charges, if any, and also six months' additional interest ; and thereupon such mortgagee shall immediately convey his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct, or the promoters of the undertaking may give notice in writing to such mortgagee that they will pay off the principal and interest due on such mortgage at the end of six months, computed from the day of giving such notice ; and if they shall have given any such notice, or if the party entitled to the equity of redemption of any such lands shall have given six months' notice of his intention to redeem the same, then, at the expiration of either of such notices, or at any intermediate period, upon payment or tender by the promoters of the undertaking to the mortgagee of the principal money due on such mortgage, and the interest which would become due at the end of six months from the time of giving either of such notices, together with his costs and expenses, if any, such mortgagee shall convey or release his Power to redeem mortgages.

interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct.

Deposit of mortgage money in Bank on refusal to accept.

**109.** If, in either of the cases aforesaid, upon such payment or tender, any mortgagee shall fail to convey or release his interest in such mortgage as directed by the promoters of the undertaking, or if he fail to adduce a good title thereto to their satisfaction, then it shall be lawful for the promoters of the undertaking to deposit in the Bank, in the manner provided by this act in like cases, the principal and interest, together with the costs, if any, due on such mortgage, and also, if such payment be made before the expiration of six months' notice as aforesaid, such further interest as would at that time become due; and it shall be lawful for them, if they think fit, to execute a deed-poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon, as well as upon such conveyance by the mortgagee, if any such be made, all the estate and interest of such mortgagee, and of all persons in trust for him, or for whom he may be a trustee, in such lands, shall vest in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession.

Vesting of mortgagee's interest by deed-poll.

Sums to be paid when mortgage exceeds the value of the lands.

**110.** If any such mortgaged lands shall be of less value than the principal, interest and costs secured thereon, the value of such lands, or the compensation to be made by the promoters of the undertaking in respect thereof, shall be settled by agreement between the mortgagee of such lands and the party entitled to the equity of redemption thereof on the one part, and the promoters of the undertaking on the other part, and if the parties aforesaid fail to agree respecting the amount of such value or compensation, the same shall be determined as in other cases of disputed compensation; and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to the mortgagee in satisfaction of his mortgage-debt, so far as the same will extend; and, upon payment or tender thereof, the mortgagee shall convey or release all his interest in such mortgaged lands to the promoters of the undertaking, or as they shall direct.

Deposit of compensation in Bank upon failure of mortgagee to convey.

**111.** If, upon such payment or tender as aforesaid being made, any such mortgagee fail so to convey his interest in such mortgage, or to adduce a good title thereto, to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such value or compensation in the Bank, in the manner provided by this act in like cases, and every such payment or deposit shall be accepted by the mortgagee in satisfaction of his mortgage-debt, so far as the same will extend, and shall be a full discharge of such mortgaged lands from all money due thereon: and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed-poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon such lands, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, shall become absolutely vested in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession; nevertheless, all rights and remedies possessed by the mortgagee against the mortgagor, by virtue of any bond or covenant or other obligation, other than the right to such lands, shall remain in force in respect of so much of the mortgage-debt as shall not have been satisfied by such payment or deposit.

Deed-poll.

Sum to be paid where part only of mortgaged lands taken.

**112.** If a part only of any such mortgaged lands be required for the purposes of the special act, and if the part so required be of less value than the principal money, interest and costs secured on such lands, and the

mortgagee shall not consider the remaining part of such lands a sufficient security for the money charged thereon, or be not willing to release the part so required, then the value of such part, and also the compensation (if any) to be paid in respect of the severance thereof or otherwise, shall be settled by agreement between the mortgagee and the party entitled to the equity of redemption of such lands on the one part, and the promoters of the undertaking on the other, and if the parties aforesaid fail to agree respecting the amount of such value or compensation, the same shall be determined as in other cases of disputed compensation; and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to such mortgagee in satisfaction of his mortgage-debt, so far as the same will extend; and thereupon such mortgagee shall convey or release to them, or as they shall direct, all his interest in such mortgaged lands the value whereof shall have been so paid: and a memorandum of what shall have been so paid shall be indorsed on the deed creating such mortgage, and shall be signed by the mortgagee; and a copy of such memorandum shall at the same time (if required) be furnished by the promoters of the undertaking at their expense, to the party entitled to the equity of redemption of the lands comprised in such mortgage deed.

**113.** If, upon payment or tender to any such mortgagee of the amount of the value or compensation so agreed upon or determined, such mortgagee shall fail to convey or release to the promoters of the undertaking, or as they shall direct, his interest in the lands in respect of which such compensation shall so have been paid or tendered, or, if he shall fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for the promoters of the undertaking to pay the amount of such value or compensation into the Bank, in the manner provided by this act in the case of monies required to be deposited in such Bank, and such payment or deposit shall be accepted by such mortgagee in satisfaction of his mortgage-debt, so far as the same will extend, and shall be a full discharge of the portion of the mortgaged lands so required from all money due thereon; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed-poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon such lands shall become absolutely vested in the promoters of the undertaking, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, and, in case such mortgagee were himself entitled to such possession, they shall be entitled to immediate possession thereof; nevertheless, every such mortgagee shall have the same powers and remedies for recovering or compelling payment of the mortgage money, or the residue thereof, (as the case may be,) and the interest thereof respectively, upon and out of the residue of such mortgaged lands, or the portion thereof not required for the purposes of the special act, as he would otherwise have had or been entitled to for recovering or compelling payment thereof upon or out of the whole of the lands originally comprised in such mortgage.

Deposit of compensation, on failure of mortgagee to convey.

Deed-poll.

**114.** Provided always, That, in any of the cases hereinbefore provided with respect to lands subject to mortgage, if in the mortgage deed a time shall have been limited for payment of the principal money thereby secured, and, under the provisions hereinbefore contained, the mortgagee shall have been required to accept payment of his mortgage money, or of part thereof, at a time earlier than the time so limited, the promoters of the undertaking shall pay to such mortgagee, in addition to the sum which shall have been so paid off, all such costs and expenses as shall be incurred by such mortgagee in respect of, or which shall be incidental to, the rein-

Compensation in case of mortgage paid off by promoters before stipulated time.

vestment of the sum so paid off, such costs, in case of difference, to be taxed and payment thereof enforced in the manner herein provided with respect to the costs of conveyances; and if the rate of interest secured by such mortgage be higher than at the time of the same being so paid off can reasonably be expected to be obtained on reinvesting the same, regard being had to the then current rate of interest, such mortgagee shall be entitled to receive from the promoters of the undertaking in addition to the principal and interest hereinbefore provided for, compensation in respect of the loss to be sustained by him by reason of his mortgage money being so prematurely paid off, the amount of such compensation to be ascertained, in case of difference, as in other cases of disputed compensation; and until payment or tender of such compensation as aforesaid, the promoters of the undertaking shall not be entitled, as against such mortgagee, to possession of the mortgaged lands under the provisions hereinbefore contained.

Expenses of re-investment, &c.

*Rent-charges.*

And with respect to Lands charged with any Rent-service, Rent-charge, or chief or other rent, or other payment or incumbrance not hereinbefore provided for, be it enacted as follows:—

Release of lands from rent-charge.

**115.** If any difference shall arise between the promoters of the undertaking and the party entitled to any such charge upon any lands required to be taken for the purposes of the special act, respecting the consideration to be paid for the release of such lands therefrom, or from the portion thereof affecting the lands required for the purposes of the special act, the same shall be determined as in other cases of disputed compensation.

Release of part of lands from charge.

**116.** If part only of the lands charged with any such rent-service, rent-charge, chief or other rent, payment or incumbrance, be required to be taken for the purposes of the special act, the apportionment of any such charge may be settled by agreement between the party entitled to such charge and the owner of the lands on the one part, and the promoters of the undertaking on the other part, and, if such apportionment be not so settled by agreement, the same shall be settled by two justices; but if the remaining part of the lands so jointly subject be a sufficient security for such charge, then, with consent of the owner of the lands so jointly subject, it shall be lawful for the party entitled to such charge to release therefrom the lands required, on condition or in consideration of such other lands remaining exclusively subject to the whole thereof.

Deposit of compensation in Bank in case of refusal to release.

**117.** Upon payment or tender of the compensation so agreed upon or determined to the party entitled to any such charge as aforesaid, such party shall execute to the promoters of the undertaking a release of such charge; and if he fail so to do, or if he fail to adduce good title to such charge, to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such compensation in the Bank in the manner hereinbefore provided in like cases, and also, if they think fit, to execute a deed-poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon the rent-service, rent-charge, chief or other rent, payment or incumbrance, or the portion thereof in respect whereof such compensation shall so have been paid, shall cease and be extinguished.

Deed-poll.

Charge to continue on lands not taken.

**118.** If any such lands be so released from any such charge or incumbrance, or portion thereof, to which they were subject jointly with other lands, such last-mentioned lands shall alone be charged with the whole of such charge, or with the remainder thereof, as the case may be, and the party entitled to the charge shall have all the same rights and remedies over such last-mentioned lands, for the whole or for the remainder of the charge, as the case may be, as he had previously over the whole of the

lands subject to such charge; and if, upon any such charge or portion of charge being so released, the deed or instrument creating or transferring such charge be tendered to the promoters of the undertaking for the purpose, they or two of them shall subscribe, or, if they be a corporation, shall affix their common seal to a memorandum of such release indorsed on such deed or instrument, declaring what part of the lands originally subject to such charge shall have been purchased by virtue of the special act, and, if the lands be released from part of such charge, what proportion of such charge shall have been released, and how much thereof continues payable, or, if the lands so required shall have been released from the whole of such charge, then that the remaining lands are thenceforward to remain exclusively charged therewith; and such memorandum shall be made and executed at the expense of the promoters of the undertaking, and shall be evidence in all courts and elsewhere of the facts therein stated, but not so as to exclude any other evidence of the same facts.

*Leases.*

And with respect to lands subject to leases,* be it enacted as follows:—

*Where part only of lands taken, rent to be apportioned by agreement, or by justices.*

** [See vol. I ch. V. s. 5.]*

**119.** If any lands shall be comprised in a lease for a term of years unexpired, part only of which lands shall be required for the purposes of the special act, the rent payable in respect of the lands comprised in such lease shall be apportioned between the lands so required and the residue of such lands; and such apportionment may be settled by agreement between the lessor and lessee of such lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement between the parties, such apportionment shall be settled by two justices; and after such apportionment the lessee of such lands shall, as to all future accruing rent, be liable only to so much of the rent as shall be so apportioned in respect of the lands not required for the purposes of the special act; and as to the lands not so required, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of such portion of rent as previously to such apportionment he had for the recovery of the whole rent reserved by such lease; and all the covenants, conditions and agreements of such lease, except as to the amount of rent to be paid, shall remain in force with regard to that part of the land which shall not be required for the purposes of the special act, in the same manner as they would have done in case such part only of the land had been included in the lease.

*Damage by severance.*

*[See ss. 49 and 63.]*

**120.** Every such lessee as last aforesaid shall be entitled to receive from the promoters of the undertaking compensation for the damage done to him in his tenancy by reason of the severance of the lands required from those not required, or otherwise by reason of the execution of the works.

*Compensation to tenants from year to year.*

**121.** If any such lands shall be in the possession of any person having no greater interest therein than as a tenant for a year or from year to year, and if such person be required to give up possession of any lands so occupied by him before the expiration of his term or interest therein, he shall be entitled to compensation for the value of his unexpired term or interest in such lands, and for any just allowance which ought to be made to him by an incoming tenant, and for any loss or injury he may sustain, or, if a part only of such lands be required, compensation for the damage done to him in his tenancy by severing the lands held by him, or otherwise injuriously affecting the same; and the amount of such compensation shall be determined by two justices, in case the parties differ about the same; and upon payment or tender of the amount of such compensation, all such persons shall respectively deliver up to the promoters of the undertaking, or to the person appointed by them to take possession thereof, any such lands in their possession required for the purposes of the special act.

Production of lease.

**122.** If any party, having a greater interest than as tenant at will, claim compensation in respect of any unexpired term or interest under any lease or grant of any such lands, the promoters of the undertaking may require such party to produce the lease or grant in respect of which such claim shall be made, or the best evidence thereof in his power; and if, after demand made in writing by the promoters of the undertaking, such lease or grant, or such best evidence thereof, be not produced within twenty-one days, the party so claiming compensation shall be considered as a tenant holding only from year to year and be entitled to compensation accordingly.

Limit of time for compulsory purchase.

**123.** And be it enacted, that the powers of the promoters of the undertaking for the compulsory purchase or taking of lands for the purposes of the special act shall not be exercised after the expiration of the prescribed period, and, if no period be prescribed, not after the expiration of three years from the passing of the special act.

*Interests omitted to be Purchased.*

And with respect to interests in lands which have by mistake been omitted to be purchased, be it enacted as follows:—

Promoters may hold lands omitted to be purchased, on condition of purchasing them.

**124.** If, at any time after the promoters of the undertaking shall have entered upon any lands which, under the provisions of this or the special act, or any act incorporated therewith, they were authorized to purchase, and which shall be permanently required for the purposes of the special act, any party shall appear to be entitled to any estate, right or interest in or charge affecting such lands which the promoters of the undertaking shall, through mistake or inadvertence, have failed or omitted duly to purchase or to pay compensation for, then, whether the period allowed for the purchase of lands shall have expired or not, the promoters of the undertaking shall remain in the undisturbed possession of such lands, provided, within six months after notice of such estate, right, interest or charge, in case the same shall not be disputed by the promoters of the undertaking, or, in case the same shall be disputed, then, within six months after the right thereto shall have been finally established by law in favour of the party claiming the same, the promoters of the undertaking shall purchase or pay compensation for the same, and shall also pay to such party, or to any other party who may establish a right thereto, full compensation for the mesne profits or interest which would have accrued to such parties respectively in respect thereof during the interval between the entry of the promoters of the undertaking thereon and the time of the payment of such purchase-money or compensation by the promoters of the undertaking, so far as such mesne profits or interest may be recoverable in law or equity; and such purchase-money or compensation shall be agreed on or awarded and paid in like manner as, according to the provisions of this act, the same respectively would have been agreed on or awarded and paid in case the promoters of the undertaking had purchased such estate, right, interest or charge before their entering upon such land, or as near thereto as circumstances will admit.

Mesne profits.

Value of such lands to be estimated as at time of entry

**125.** In estimating the compensation to be given for any such last-mentioned lands, or any estate or interest in the same, or for any mesne profits thereof, the jury, or arbitrators, or justices, (as the case may be,) shall assess the same according to what they shall find to have been the value of such lands, estate or interest, and profits, at the time such lands were entered upon by the promoters of the undertaking, and without regard to any improvements or works made in the said lands by the promoters of the undertaking, and as though the works had not been constructed.

126. In addition to the said purchase-money, compensation or satisfaction, and before the promoters of the undertaking shall become absolutely entitled to any such estate, interest or charge, or to have the same merged or extinguished for their benefit, they shall, when the right to any such estate, interest or charge shall have been disputed by the company, and determined in favour of the party claiming the same, pay the full costs and expenses of any proceedings at law or in equity for the determination or recovery of the same to the parties with whom any such litigation in respect thereof shall have taken place; and such costs and expenses shall, in case the same shall be disputed, be settled by the proper officer of the court in which such litigation took place.

Promoters to pay costs of adverse litigation as to such lands.

*Superfluous Lands.*

[See vol. I. ch. VIII. s. 3.]

And with respect to lands acquired by the promoters of the undertaking under the provisions of this or the special act, or any act incorporated therewith, but which shall not be required for the purposes thereof, be it enacted as follows:—

127. Within the prescribed period, or if no period be prescribed, within ten years after the expiration of the time limited by the special act for the completion of the works, the promoters of the undertaking shall absolutely sell and dispose of all such superfluous lands, and apply the purchase-money arising from such sales to the purposes of the special act; and, in default thereof, all such superfluous lands remaining unsold at the expiration of such period shall thereupon vest in and become the property of the owners of the lands adjoining thereto, in proportion to the extent of their lands respectively adjoining the same.

Lands not wanted to be sold, or, in default, to vest in owners of adjoining lands.

128. Before the promoters of the undertaking dispose of any such superfluous lands, they shall, unless such lands be situate within a town, or be lands built upon or used for building purposes, first offer to sell the same to the person then entitled to the lands (if any) from which the same were originally severed; or, if such person refuse to purchase the same, or cannot after diligent inquiry be found, then the like offer shall be made to the person or to the several persons whose lands shall immediately adjoin the lands so proposed to be sold, such persons being capable of entering into a contract for the purchase of such lands; and where more than one such person shall be entitled to such right of pre-emption, such offer shall be made to such persons in succession, one after another, in such order as the promoters of the undertaking shall think fit.

Superfluous lands to be offered to owners of lands from which they were originally taken or to adjoining owners.

129. If any such person be desirous of purchasing such lands, then, within six weeks after such offer of sale, they shall signify their desire in that behalf to the promoters of the undertaking, or if they decline such offer, or if for six weeks they neglect to signify their desire to purchase such lands, the right of pre-emption of every such person so declining or neglecting in respect of the lands included in such offer shall cease; and a declaration in writing made before a justice by some person not interested in the matter in question, stating that such offer was made and was refused, or not accepted within six weeks from the time of making the same, or that the person or all the persons entitled to the right of pre-emption were out of the country, or could not after diligent inquiry be found, or were not capable of entering into a contract for the purchase of such lands, shall in all courts be sufficient evidence of the facts therein stated.

Right of pre-emption to be claimed within six weeks.

130. If any person entitled to such pre-emption be desirous of purchasing any such lands, and such person and the promoters of the undertaking do not agree as to the price thereof, then such price shall be ascertained by arbitration (*c*), and the costs of such arbitration shall be in the discretion of the arbitrators.

Differences as to price to be settled by arbitration.

(*c*) See sect. 25, ante.

Lands to be conveyed to the purchasers.

**131.** Upon payment or tender to the promoters of the undertaking of the purchase-money so agreed upon or determined as aforesaid, they shall convey such lands to the purchasers thereof by deed under the common seal of the promoters of the undertaking, if they be a corporation, or, if not a corporation, under the hands and seals of the promoters of the undertaking, or any two of the directors or managers thereof acting by the authority of the body; and a deed so executed shall be effectual to vest the lands comprised therein in the purchaser of such lands for the estate which shall so have been purchased by him: and a receipt under such common seal, or under the hands of two of the directors or managers of the undertaking as aforesaid, shall be a sufficient discharge to the purchaser of any such lands for the purchase-money in such receipt expressed to be received.

"Grant," in conveyances, to operate as covenants for.

**132.** In every conveyance of lands to be made by the promoters of the undertaking under this or the special act, the word "grant" shall operate as express covenants by the promoters of the undertaking, for themselves and their successors, or for themselves, their heirs, executors, administrators and assigns, as the case may be, with the respective grantees therein named, and the successors, heirs, executors, administrators and assigns of such grantees, according to the quality or nature of such grants, and of the estate or interest therein expressed to be thereby conveyed as follows, except so far as the same shall be restrained or limited by express words contained in any such conveyance; (that is to say,)—

Freedom from incumbrances.

A covenant that, notwithstanding any act or default done by the promoters of the undertaking, they were at the time of the execution of such conveyance seised or possessed of the lands or premises thereby granted for an indefeasible estate of inheritance in fee simple, free from all incumbrances done or occasioned by them, or otherwise for such estate or interest as therein expressed to be thereby granted, free from incumbrances done or occasioned by them;

Quiet enjoyment.

A covenant that the grantee of such lands, his heirs, successors, executors, administrators and assigns (as the case may be), shall quietly enjoy the same against the promoters of the undertaking, and their successors, and all other persons claiming under them, and be indemnified and saved harmless by the promoters of the undertaking and their successors from all incumbrances created by the promoters of the undertaking;

Further assurance.

A covenant for further assurance of such lands, at the expense of such grantee, his heirs, successors, executors, administrators or assigns (as the case may be), by the promoters of the undertaking, or their successors, and all other persons claiming under them;

And all such grantees, and their several successors, heirs, executors, administrators and assigns respectively, according to their respective quality or nature, and the estate or interest in such conveyance expressed to be conveyed, may in all actions brought by them assign breaches of covenants, as they might do if such covenants were expressly inserted in such conveyances.

Land tax and poor's rate to be made good.

[See vol I., ch. XVII., s. 1.]

**133.** And be it enacted, That, if the promoters of the undertaking become possessed by virtue of this or the special act, or any act incorporated therewith, of any lands charged with the land tax, or liable to be assessed to the poor's rate, they shall, from time to time, until the works shall be completed and assessed to such land tax or poor's rate, be liable to make good the deficiency in the several assessments for land tax and poor's rate by reason of such lands having been taken or used for the purposes of the works, and such deficiency shall be computed according to the rental at which such lands, with any building thereon, were valued or rated at the time

of the passing of the special act; and on demand of such deficiency, the promoters of the undertaking, or their treasurer, shall pay all such deficiencies to the collector of the said assessments respectively; nevertheless, if at any time the promoters of the undertaking think fit to redeem such land tax, they may do so in accordance with the powers in that behalf given by the acts for the redemption of the land tax.

Service of notices upon company.

**134.** And be it enacted, That any summons or notice, or any writ or other proceeding at law or in equity, requiring to be served upon the promoters of the undertaking, may be served by the same being left at or transmitted through the post directed to the principal office of the promoters of the undertaking, or one of the principal offices where there shall be more than one, or being given or transmitted through the post directed to the secretary, or, in case there be no secretary, the solicitor of the said promoters (*cc*).

Tender of amends.

**135.** And be it enacted, That, if any party shall have committed any irregularity, trespass or other wrongful proceeding in the execution of this or the special act, or any act incorporated therewith, or by virtue of any power or authority thereby given, and if, before action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action; and if no such tender shall have been made, it shall be lawful for the defendant by leave of the court where such action shall be pending, at any time before issue joined, to pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court (*d*).

*Recovery of Penalties.*

And with respect to the recovery of forfeitures, penalties and costs, be it enacted as follows (*e*):—

Penalties to be summarily recovered before two justices.

**136.** Every penalty or forfeiture imposed by this or the special act, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices. . . . .

[**137.** *Penalties to be levied by distress:* Repealed as to England by Summary Jurisdiction Act, 1884.]

Distress how to be levied.

**138.** Where in this or the special act, or any act incorporated therewith, any sum of money, whether in the nature of penalty, costs or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Application of penalties.

**139.** The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed, to be applied in aid of the poor's rate of such parish: *or if the place wherein the offence shall have been committed shall be extra-parochial, then such justices shall direct such remainder to be applied in aid of the poor's rate of such extra-parochial place, or, if there shall not be any*

(*cc*) Kept up by R. S. C., 1883, Order IX., r. 8.

(*d*) This and the following sections of the act are similar to, and in most cases identical with, ss. 141—165 of the Companies Clauses Act, 1845 (8 Vict. c. 16), and with ss. 139—165 of the Railways Clauses Act, 1845 (8 Vict. c. 20).

(*e*) See 11 & 12 Vict. c. 43, as to the mode of proceeding upon summary convictions. The remaining portion of s. 136 is repealed by the Summary Jurisdiction Act, 1884.

*poor's rate therein, in aid of the poor's rate of any adjoining parish or district* (*f*).

Distress against the treasurer.

**140.** If any such sum shall be payable by the promoters of the undertaking, and if sufficient goods of the said promoters cannot be found whereon to levy the same, it may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the said promoters, and the justices aforesaid, or either of them, on application shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such treasurer unless seven days' previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid, he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the promoters of the undertaking coming into his custody or control, or he may sue them for the same.

Distress not unlawful for want of form.

**141.** No distress levied by virtue of this or the special act, or any act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage, in an action upon the case.

[**142.** *Penalties to be sued for within six months:* Repealed as to England by Summary Jurisdiction Act, 1884.]

[**143.** *Penalty on witnesses making default:* Similar to and repealed to the same extent as s. 155 of the Companies Clauses Act, 1845, ante.]

[**144.** *Form of conviction:* Repealed as to England by Act of 1884.]

Certiorari excluded

**145.** No proceeding in pursuance of this or the special act, or any act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

Appeal to quarter sessions.

**146.** If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture, under the provisions of this or the special act, or any act incorporated therewith, such party may appeal to the general quarter sessions . . . . (*g*).

Court to make such order as they think reasonable

**147.** At the quarter sessions for which such notice (*h*) shall be given, the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal, the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

Receiver of the metropolitan police district to receive penalties incurred within his district.

**148.** Provided always, and be it enacted, That, notwithstanding anything herein or in the special act, or any act incorporated therewith, contained, every penalty or forfeiture imposed by this or the special act, or any act incorporated therewith, or by any bye-law in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the

(*f*) Portion italicised repealed by Stat. Law Rev. Act, 1875, 38 & 39 Vict. c. 66.

(*g*) Remaining portion of section as to time and notice of appeal, &c., repealed, as to England, by Act of 1884, as being superseded by the Summary Jurisdiction Act, 1879, as amended by that act.

(*h*) *I.e.*, the notice provided for in the repealed part of the section.

application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid and applied by an act passed in the third year of the reign of her present Majesty, intituled "An Act for regulating the Police Courts in the Metropolis," and every order or conviction of any of the police magistrates, in respect of any such forfeiture or penalty, shall be subject to the like appeal, and upon the same terms, as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expenses as he or they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned act. 2 & 3 Vict. c. 71

**149.** And be it enacted, That any person who upon any examination upon oath, under the provisions of this or the special act, or any act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury. Persons giving false evidence liable to penalties of perjury.

*Access to Special Act.*

And with respect to the provision to be made for affording access to the special act by all parties interested, be it enacted as follows:—

**150.** The company shall, at all times after the expiration of six months after the passing of the special act, keep in their principal office of business a copy of the special act, printed by the printers to her Majesty, or some of them; and where the undertaking shall be a railway, canal, or other like undertaking, the works of which shall not be confined to one town or place, shall also, within the space of six months, deposit in the office of each of the clerks of the peace of the several counties into which the works shall extend a copy of such special act so printed as aforesaid; and the said clerks of the peace shall receive, and they and the company respectively shall retain, the said copies of the special act, and shall permit all persons interested to inspect the same and make extracts or copies therefrom, in the like manner and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an act passed in the first year of the reign of her present Majesty, intituled "An Act to compel Clerks of the Peace for Counties, and other Persons, to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament." Copies of special act to be kept and deposited, and allowed to be inspected. 7 Will. IV. and 1 Vict. c. 83, ante, p. 1.

**151.** If the company shall fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the special act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited. Penalty on company failing to keep or deposit.

**152.** And be it enacted, That this act shall not extend to Scotland (*i*). Act not to extend to Scotland.

## SCHEDULES REFERRED TO IN THE FOREGOING ACT.

### Schedule (A.).

*Form of Conveyance.*

I, of , in consideration of the sum of , paid to me [*or* , *as the case may be*], into the Bank of England [*or* "Bank of Ireland"], in the name and with the privity of the Accountant-General of the Court of Chancery, *ex parte*

(*i*) The Scotch Act is 8 Vict. c. 19.

"The promoters of the undertaking" [*naming them*], [or to *A. B.*, of , and *C. D.*, of , two trustees appointed to receive the same], pursuant to the [*here name the special act*], by the [*here name the company, or other promoters of the undertaking*], incorporated [*or* "constituted"] by the said act, do hereby convey to the said company [*or other description*], their successors and assigns, all [*describing the premises to be conveyed*], together with all ways, rights, and appurtenances thereto belonging, and all such estate, right, title, and interest in and to the same as I am or shall become seised or possessed of, or am by the said act empowered to convey, to hold the premises to the said company [*or other description*], their successors and assigns for ever, according to the true intent and meaning of the said act. In witness whereof I have hereunto set my hand and seal, the day of , in the year of our Lord .

SCHEDULE (B.).

*Form of Conveyance on Chief Rent.*

I, of , in consideration of the rent-charge to be paid to me, my heirs and assigns, as hereinafter mentioned, by "The promoters of the undertaking" [*naming them*], incorporated [*or* constituted] by virtue of the [*here name the special act*], do hereby convey to the said company [*or other description*], their successors and assigns all [*describing the premises to be conveyed*], together with all ways, rights, and appurtenances thereunto belonging, and all my estate, right, title, and interest in and to the same and every part thereof, to hold the said premises to the said company [*or other description*], their successors and assigns, for ever, according to the true intent and meaning of the said act, they the said company [*or other description*], their successors and assigns, yielding and paying unto me, my heirs and assigns, one clear yearly rent of , by equal quarterly [*or* "half-yearly," *as agreed upon*], portions, henceforth, on the [*stating the days*], clear of all taxes and deductions. In witness whereof I hereunto set my hand and seal, the day of , in the year of our Lord

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## 8 VICT. CAP. 20.

*An Act for Consolidating in one Act certain provisions usually inserted in Acts authorizing the making of Railways (k).*

[8th May, 1845.

Whereas it is expedient to comprise in one general act sundry provisions usually introduced into acts of parliament authorizing the construction of railways, and that, as well for the purpose of avoiding the necessity of repeating such provisions in each of the several acts relating to such undertakings, as for ensuring a greater uniformity in the provisions themselves; and whereas a bill is now pending in parliament, intituled "An Act for consolidating in one Act certain Provisions usually inserted in Acts authorizing the taking of lands for undertakings of a Public Nature," and which is intended to be called "The Lands Clauses Consolidation Act, 1845:" May it therefore please your Majesty that it may be enacted: and be it enacted by (&c., &c.), That this act shall apply to every railway which shall, by an act which shall hereafter be passed, be authorized to be constructed, and this act shall be incorporated with such act; and all the clauses and provisions of this act, save so far as they shall be expressly varied or excepted by any such act, shall apply to the undertaking authorized thereby, so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other act which shall be incorporated with such act, form part of such act (*l*), and be construed together therewith as forming one act.

Incorporation of act with all special acts passed afterwards, except as expressly varied.

[See vol. I., ch. II., s. 1.]

(*k*) See also "The Railways Clauses Act, 1863," 26 & 27 Vict. c. 92, post.

(*l*) Where a special act was amended by a subsequent act, with which latter act the Consolidation Act was incorporated: held,

*Interpretations in this Act*

And with respect to the construction of this act and of other acts to be incorporated therewith, be it enacted as follows: —

"special act;" "prescribed;" "the lands;" "the undertaking."

**2.** The expression "the special act," used in this act, shall be construed to mean any act which shall be hereafter passed authorizing the construction of a railway, and with which this act shall be so incorporated as aforesaid; and the word "prescribed," used in this act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act, and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special act" had been used; and the expression "the lands" shall mean the lands which shall by the special act be authorized to be taken or used for the purposes thereof; and the expression "the undertaking" shall mean the railway and works, of whatever description, by the special act authorized to be executed.

Interpretations in this and the special act:

**3.** The following words and expressions, both in this and the special act, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

Words importing the singular number only shall include the plural number; and words importing the plural number only shall include also the singular number; — number;

Words importing the masculine gender only shall include females; — gender;

The word "lands" shall include messuages, lands, tenements, and hereditaments of any tenure; — "lands;"

The word "lease" shall include an agreement for a lease; — "lease;"

The word "toll" shall include any rate or charge or other payment payable under the special act for any passenger, animal, carriage, goods, merchandize, articles, matters, or things conveyed on the railway; — "toll,"

The word "goods" shall include things of every kind conveyed upon the railway; — "goods,"

The word "month" shall mean calendar month; — "month;"

The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require; — "superior courts;"

The word "oath" shall include affirmation in the case of Quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath; — "oath;"

The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town; — "county;"

The word "sheriff" shall include under-sheriff or other legally competent deputy; and where any matter in relation to any lands is required to be done by any sheriff or clerk of the peace, the expression "the sheriff," or the expression "the clerk of the peace," shall in such case be construed to mean the sheriff or the clerk of the peace of the county, city, borough, liberty, cinque port or place where such lands shall be situate; and if the lands in question, being the property of one and the same party, be situate not wholly in one county, city, borough, liberty, cinque port, or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate; — "the sheriff;" "the clerk of the peace;"

The word "justice" shall mean justice of the peace acting for the county, city, borough, liberty, cinque port, or place where the matter requiring the cognizance of any such justice shall arise, and who shall not be — "justice;"

that its provisions were applicable to works done under the original special act. *Evans* v. *Lancashire and Yorkshire R. Co.*, 22 L. J., Q. B. 254; 1 E. & B. 754.

interested in the matter; and where such matter shall arise in respect of lands, being the property of one and the same party, situate not wholly in any one county, city, borough, liberty, cinque port, or place, shall mean a justice acting for the county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together;

"two justices;"

"owner;"

Where, under the provisions of this or the special act, any notice shall be required to be given to the owner of any lands, or where any act shall be authorized or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any person or corporation who, under the provisions of this or the special act, or any act incorporated therewith, would be enabled to sell and convey lands to the company;

"the company,"

The expression "the company" shall mean the company or party which shall be authorized by the special act to construct the railway;

"the railway,"

The expression "the railway" shall mean the railway and works by the special act authorized to be constructed;

"Board of Trade,"

The expression "the Board of Trade" shall mean the lords of the committee of her Majesty's Privy Council appointed for Trade and Foreign Plantations;

"the Bank;"

The expression "the Bank" shall mean the Bank of England where the same shall relate to monies to be paid or deposited in respect of lands situate in England; and shall mean the Bank of Ireland where the same shall relate to monies to be paid or deposited in respect of lands situate in Ireland;

"turnpike road," Ireland,

The expression "turnpike road" shall, when applied to any road in Ireland, include any road upon which her Majesty's mails are or shall be carried in mail carriages; or such other roads as the Commissioners of Public Works in Ireland shall consider to require arches of greater width or height than by this act is required for public carriage roads;

"surveyor," Ireland;

The expression "surveyor," applied to a road or highway, shall, as to railways in Ireland, include the county surveyor (*m*);

"overseers of the poor," Ireland.

The expression "overseers of the poor," when applied to Ireland, shall include the poor-law guardians of the electoral division and the clerk of the guardians of the union through which such railway may pass (*n*).

Short title.

**4.** And be it enacted, That, in citing this act in other acts of Parliament, and in legal instruments, it shall be sufficient to use the expression "The Railways Clauses Consolidation Act, 1845."

Form in which portions of this act may be incorporated in other acts.

**5.** And whereas it may be convenient in some cases to incorporate with acts hereafter to be passed some portion only of the provisions of this act; be it therefore enacted, That, for the purpose of making any such incorporation, it shall be sufficient in any such act to enact, that the clauses of this act with respect to the matter so proposed to be incorporated (describing such matter as it is described in this act, in the words introductory to the enactment with respect to such matter) shall be incorporated with such act, and thereupon all the clauses and provisions of this act with respect to the

(*m*) See as to the taking of lands in Ireland for the purposes of a railway, 14 & 15 Vict. c. 70, post.

(*n*) By 3 & 4 Vict. c. 10, s. 15, and 5 & 6 Vict. c. 9, s. 11, which authorises the issue of exchequer bills for certain public purposes, the commissioners are empowered to make loans or advances to any "trustees or trustee of roads or railways." These words do not seem to include railway companies.

matter so incorporated shall, save so far as they shall be expressly varied or excepted by such act, form part of such act, and such act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such act shall relate.

*Construction of Railway.*

And with respect to the construction of the railway and the works connected therewith (*o*), be it enacted as follows:

Company to be subject to this act and the Lands Clauses Act.

Compensation to owners, &c.

[See vol. I. ch. V.]

**6.** In exercising the power given to the company by the special act to construct the railway, and to take lands for that purpose, the company shall be subject to the provisions and restrictions contained in this act and in the said Lands Clauses Consolidation Act; and the company shall make to the owners and occupiers of and all other parties interested in any lands taken or used for the purposes of the railway, or injuriously affected by the construction thereof, full compensation for the value of the lands so taken or used, and for all damage sustained by such owners, occupiers, and other parties, by reason of the exercise, as regards such lands, of the powers by this or the special act, or any act incorporated therewith, vested in the company; and except where otherwise provided by this or the special act, the amount of such compensation shall be ascertained and determined in the manner provided by the said Lands Clauses Consolidation Act, for determining questions of compensation with regard to lands purchased or taken under the provisions thereof; and all the provisions of the said last-mentioned act shall be applicable to determining the amount of any such compensation, and to enforcing the payment or other satisfaction thereof.

Errors in plans to be corrected on certificate of justices.

**7.** If any omission, misstatement, or erroneous description shall have been made of any lands, or of the owners, lessees or occupiers of any lands described on the plans or books of reference mentioned in the special act, or in the schedule to the special act, it shall be lawful for the company, after giving ten days' notice to the owners of the lands affected by such proposed correction, to apply to two justices for the correction thereof; and if it shall appear to such justices that such omission, misstatement or erroneous description arose from mistake, they shall certify the same accordingly, and they shall in such certificate state the particulars of any such omission, and in what respect any such matter shall have been misstated or erroneously described; and such certificate shall be deposited with the clerks of the peace of the several counties in which the lands affected thereby shall be situated, and shall also be deposited with the parish clerks of the several parishes in England, and with the postmasters of the post-towns in or nearest to such parishes in Ireland, in which the lands affected thereby shall be situate; and such certificate shall be kept by such clerks of the peace, parish clerks and postmasters respectively along with the other documents to which they relate; and thereupon such plan, book of reference or schedule shall be deemed to be corrected according to such certificate; and it shall be lawful for the company to make the works in accordance with such certificate.

Deposit of certificate.

Works not to be proceeded with until plans of all alterations authorized by Parliament have been deposited.

**8.** It shall not be lawful for the company to proceed in the execution of the railway unless they shall have, previously to the commencement of such work, deposited with the clerks of the peace of the several counties in or through which the railway is intended to pass, a plan and section of all such alterations from the original plan and section as shall have been approved of by Parliament, on the same scale and containing the same particulars as the original plan and section of the railway, and shall also have deposited with the clerks of the several parishes in England, and the

(*o*) As to the payment of special constables appointed to keep order among labourers employed on "railroads and other public works," see 1 & 2 Vict. c. 80, ante.

postmasters of the post-towns in or nearest to such parishes in Ireland, in or through which such alterations shall have been authorized to be made, copies or extracts of or from such plans or sections as shall relate to such parishes respectively.

Clerks of the peace, &c., to receive plans of alterations, and allow inspection.

9. The said clerks of the peace, parish clerks and postmasters shall receive the said plans and sections of alterations, and copies and extracts thereof respectively, and shall retain the same, as well as the said original plans and sections, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of the original plans and sections by an act passed in the first year of the reign of her present Majesty, intituled "An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

7 Will. IV. and 1 Vict. c. 83, ante.

Copies of plans, evidence.

10. True copies of the said plans and books of reference, or of any alteration or correction thereof, or extract therefrom, certified by any such clerk of the peace, which certificate such clerk of the peace shall give to all parties interested, when required, shall be received in all courts of justice or elsewhere as evidence of the contents thereof.

Limit of deviation from datum line described on sections, &c. [See vol. I. ch. IX. s. 1.]

11. In making the railway it shall not be lawful for the company to deviate from the levels of the railway as referred to the common datum line (*p*) described in the section approved of by Parliament, and as marked on the same, to any extent exceeding in any place five feet, or in passing through a town, village, street, or land continuously built upon, two feet, without the previous consent in writing of the owners and occupiers of the land in which such deviation is intended to be made: or, in case any street or public highway shall be affected by such deviation then the same shall not be made without the like consent of the trustees or commissioners, having the control of such street or public highway, or if there be no such trustees or commissioners, without the like consent of two or more justices of the peace in petty sessions assembled for that purpose, and acting for the district in which such street or public highway may be situated, or without the like consent of the commissioners for any public sewers, or the proprietors of any canal, navigation, gasworks, or waterworks affected by such deviation:

Proviso.

Provided always, that it shall be lawful for the company to deviate from the said levels to a further extent without such consent as aforesaid, by lowering solid embankments or viaducts, provided that the requisite height of headway as prescribed by act of Parliament be left for roads, streets, or

Proviso.

canals passing under the same: Provided also, that notice of every petty sessions to be holden for the purpose of obtaining such consent of two justices as is hereinbefore required shall, fourteen days previous to the holding of such petty sessions, be given in some newspaper circulating in the county, and also be affixed upon the door of the parish church in which such deviation or alteration is intended to be made, or, if there be no church, some other place to which notices are usually affixed.

Public notice to be given previous to making greater deviations.

12. Before it shall be lawful for the company to make any greater deviation from the level than five feet, or, in any town, village, street, or land continuously built upon, two feet, after having obtained such consent as aforesaid, it shall be incumbent on the company to give notice of such intended deviation by public advertisement, inserted once at least in two newspapers, or twice at least in one newspaper circulating in the district or neighbourhood where such deviation is intended to be made, three weeks

(*p*) See 26 & 27 Vict. c. 92, s. 4, post.

at least before commencing to make such deviation; and it shall be lawful for the owner of any lands prejudicially affected thereby, at any time before the commencement of the making of such deviation, to apply to the Board of Trade, after giving ten days' notice to the company, to decide whether, having regard to the interests of such applicants, such proposed deviation is proper to be made, and it shall be lawful for the Board of Trade, if they think fit, to decide such question accordingly, and by their certificate in writing either to disallow the making of such deviation, or to authorize the making thereof, either simply or with any such modification as shall seem proper to the Board of Trade; and after any such certificate shall have been given by the Board of Trade, it shall not be lawful for the company to make such deviation, except in conformity with such certificate.

Power to owners of adjoining lands to appeal to Board of Trade.

**13.** Where in any place it is intended to carry the railway on an arch or arches or other viaduct, as marked on the said plan or section, the same shall be made accordingly; and where a tunnel is marked on the said plan or section as intended to be made at any place, the same shall be made accordingly (*q*), unless the owners, lessees, and occupiers of the land in which such tunnel is intended to be made shall consent that the same shall not be so made.

Arches, tunnels, &c., to be made as marked on deposited plans.

[See vol. I ch. IX. s. 1.]

**14.** It shall not be lawful for the company to deviate from or alter the gradients, curves, tunnels, or other engineering works described in the said plan or section, except within the following limits, and under the following conditions: (that is to say,)

Limiting deviations from gradients, curves, &c.

Subject to the above provisions in regard to altering levels, it shall be lawful for the company to diminish the inclination or gradients of the railway to any extent, and to increase the said inclination or gradients as follows: (that is to say,) in gradients of an inclination not exceeding one in a hundred, to any extent not exceeding ten feet per mile, or to any further extent which shall be certified by the Board of Trade to be consistent with the public safety, and not prejudicial to the public interest; and in gradients of or exceeding the inclination of one in a hundred, to any extent not exceeding three feet per mile, or to any further extent which shall be so certified by the Board of Trade as aforesaid.

It shall be lawful for the company to diminish the radius of any curve described in the said plan to any extent which shall leave a radius of not less than half a mile, or to any further extent authorized by such certificate as aforesaid from the Board of Trade.

It shall be lawful for the company to make a tunnel, not marked on the said plan or section, instead of a cutting, or a viaduct instead of a solid embankment, if authorized by such certificate as aforesaid from the Board of Trade (*r*).

**15.** It shall be lawful for the company to deviate from the line delineated on the plans so deposited, provided that no such deviation shall extend to a greater distance than the limits of deviation delineated upon the said plans, nor to a greater extent in passing through a town, village, or lands continuously built upon than ten yards, or elsewhere to a greater extent than one hundred yards from the said line, and that the railway by means of such deviation be not made to extend into the lands of any person, whether owner, lessee, or occupier, whose name is not mentioned in the books of reference, without the previous consent in writing of such person, unless the name of such person shall have been omitted by mistake, and the fact that such omission proceeded from mistake shall have been certified in manner herein or in the special act provided for in cases of unintentional errors in the said books of reference.

Lateral deviations.

(*q*) See 26 & 27 Vict. c. 92, s. 4, post. (*r*) Ibid.

Works to be executed. [See vol. I. ch. IX. s. 2.]

**16.** Subject to the provisions and restrictions in this and the special act, and any act incorporated therewith, it shall be lawful for the company, for the purpose of constructing the railway, or the accommodation works connected therewith, hereinafter mentioned, to execute any of the following works: (that is to say,)

Inclined planes &c.

They may make or construct in, upon, across, under or over any lands, or any streets, hills, valleys, roads, railroads or tramroads, rivers, canals, brooks, streams, or other waters, within the lands described in the said plans, or mentioned in the said books of reference or any correction thereof, such temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings, and fences as they think proper.

Diversion of streams, &c.

They may alter the course of any rivers not navigable, brooks, streams, or watercourses, and of any branches of navigable rivers, such branches not being themselves navigable, within such lands, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under the same, and divert or alter as well temporarily as permanently, the course of any such rivers or streams of water, roads, streets or ways, or raise or sink the level of any such rivers or streams, roads, streets or ways, in order the more conveniently to carry the same over or under or by the side of the railway, as they may think proper.

Drains, &c.

They may make drains or conduits into, through, or under any lands adjoining the railway, for the purpose of conveying water from or to the railway.

Warehouses, &c.

They may erect and construct such houses, warehouses, offices and other buildings, yards, stations, wharfs, engines, machinery, apparatus, and other works and conveniences as they think proper.

Alterations.

They may from time to time alter, repair, or discontinue the beforementioned works, or any of them, and substitute others in their stead; and

General power.

They may do all other acts necessary for making, maintaining, altering or repairing, and using the railway:

Compensation for damage.

Provided always, that, in the exercise of the powers by this or the special act granted, the company shall do as little damage as can be, and shall make full satisfaction in manner herein, and in the special act, and any act incorporated therewith, provided, to all parties interested, for all damage by them sustained by reason of the exercise of such powers.

Works below high-water mark not to be executed without the consent of Board of Trade.

**17.** It shall not be lawful for the company to construct on the shore of the sea, or of any creek, bay, arm of the sea, or navigable river communicating therewith, where and so far up the same as the tide flows and re-flows, any work, or to construct any railway or bridge across any creek, bay, arm of the sea, or navigable river, where and so far up the same as the tide flows and re-flows, without the previous consent of her Majesty, her heirs and successors, to be signified in writing under the hands of two of the commissioners of her Majesty's woods, forests, land revenues, works, and buildings, and of the *Lord High Admiral of the United Kingdom of Great Britain and Ireland, or the commissioners for executing the office Lord Admiral aforesaid for the time being* (s), to be signified in writing under the hand of the secretary of the admiralty, and then only according to such plan, and under such restrictions and regulations, as the said commissioners of Her Majesty's woods, forests, land revenues, works, and buildings, and *the said Lord High Admiral, or the said commissioners* (s), may approve of,

(s) Now Board of Trade, see "Harbours Transfer Act, 1862," 25 & 26 Vict. c. 69, post.

such approval being signified as last aforesaid; and where any such work, railway or bridge, shall have been constructed, it shall not be lawful for the company at any time to alter or extend the same without obtaining previously to making any such alteration or extension, the like consents or approvals; and if any such work, railway or bridge shall be commenced or completed contrary to the provisions of this act, it shall be lawful for the said commissioners of her Majesty's woods, forests, land revenues, works and buildings, or *the said Lord High Admiral, or the said commissioners for executing the office of Lord High Admiral* (*t*), to abate and remove the same, and to restore the site thereof to its former condition at the cost and charge of the company; and the amount thereof may be recovered in the same manner as a penalty is recoverable against the company.

Alteration of water and gas pipes, &c.

**18.** It shall be lawful for the company, for the purpose of constructing the railway, to raise, sink or otherwise alter the position of any of the watercourses, water pipes, or gas pipes belonging to any of the houses adjoining or near to the railway, and also the mains and other pipes laid down by any company or society who may furnish the inhabitants of such houses or places with water or gas, and also to remove all other obstructions to such construction, so as the same respectively be done with as little detriment and inconvenience to such company, society or inhabitants as the circumstances will admit, and be done under the superintendence of the company to which such water pipes or gas pipes belong, and of the several commissioners or trustees, or persons having control of the pavements, sewers, roads, streets, highways, lanes and other public passages and places within the parish or district where such mains, pipes or obstructions shall be situate, or of their surveyor if they or he think fit to attend, after receiving not less than forty-eight hours' notice for that purpose.

Company not to disturb pipes until they have laid down others.

**19.** Provided always, that it shall not be lawful for the company to remove or displace any of the mains or pipes (other than private service pipes, syphons, plugs or other works belonging to any such company or society, or to do anything to impede the passage of water or gas into or through such mains or pipes, until good and sufficient mains or pipes, syphons, plugs and all other works necessary or proper for continuing the supply of water or gas as sufficiently as the same was supplied by the mains or pipes proposed to be removed or displaced, shall, at the expense of the company, have been first made and laid down in lieu thereof, and be ready for use, in a position as little varying from that of the pipes or mains proposed to be removed or displaced as may be consistent with the construction of the railway, and to the satisfaction of the surveyor or engineer of such water or gas company or society, or, in case of disagreement between such surveyor or engineer and the company, as a justice shall direct.

Pipes not to be laid contrary to any act, and 18 inches surface road to be retained.

**20.** It shall not be lawful for the company to lay down any such pipes contrary to the regulations of any act of Parliament relating to such water or gas company or society, or to cause any road to be lowered for the purposes of the railway, without leaving a covering of not less than eighteen inches from the surface of the road over such mains or pipes.

Company to make good all damage.

**21.** The company shall make good all damage done to the property of the water or gas company or society, by the disturbance thereof, and shall make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with the mains, pipes or works of such water or gas company or society, or with the private service pipes of any person supplied by them with water.

When railway crosses pipes, company to make a culvert.

**22.** If it shall be necessary to construct the railway or any of the works over any mains or pipes of any such water or gas company or society, the company shall, at their own expense, construct and maintain a good and

(*t*) Now Board of Trade, see note (*s*) supra.

sufficient culvert over such main or pipe, so as to leave the same accessible for the purpose of repairs.

Penalty for obstructing supply of gas or water.

**23.** If by any such operations as aforesaid the company shall interrupt the supply of any water or gas, they shall forfeit twenty pounds for every day that such supply shall be so interrupted, and such penalty shall be appropriated to the benefit of the poor of the parish in which such obstruction shall occur, in such manner as the overseers of the poor of the parish shall direct.

Penalty for obstructing construction of railway.

**24.** If any person wilfully obstruct any person acting under the authority of the company in the lawful exercise of their power, in setting out the line of the railway, or pull up or remove any poles or stakes driven into the ground for the purpose of so setting out the line of the railway, or deface or destroy any marks made for the same purpose, he shall forfeit a sum not exceeding five pounds for every such offence (*u*).

*Drainage of Lands (Ireland).*

And whereas there are large tracts of land in Ireland subject to flood and injury by water, and the rivers, streams and watercourses are in many places obstructed by shoals, insufficient bridges, culverts, weirs and other works, whereby the waters thereof are elevated above their natural level: and whereas an act of Parliament was passed in the second year of the reign of his late Majesty King William the Fourth, intituled "An Act to empower Landed Proprietors in Ireland to sink, embank and remove Obstructions in Rivers:" and whereas another act was passed in the sixth year of the reign of her present Majesty, intituled "An Act to promote the Drainage of Lands, and Improvement of Navigation and Water Power in connection with such Drainage in Ireland;" and by the said last-mentioned act public commissioners were appointed to carry the said last-recited act into execution; and whereas it is essential, for carrying into effect the purposes of the said acts, and for the improvement of agriculture, that ample provision be made in all railway works in Ireland, for the free and uninterrupted passage of the waters at such level as will be sufficient not only for the present but all future discharge of the waters from lands crossed by or being on either side of such works, and that the bridges of railways crossing all watercourses, rivers, lakes or estuaries which are or hereafter may be made navigable, shall be so constructed as to admit of the commodious navigation of the same; therefore, with respect to the provision to be made for the drainage of land in Ireland which may be crossed by the railway, and for the protection of the navigation connected therewith, be it enacted as follows:

1 & 2 Will. IV. c. 57.

5 & 6 Vict. c. 89.

Company to submit to Drainage Commissioners in Ireland, plans, &c., of the portion of the railway which they are about to execute.

**25.** If the special act shall authorize the construction of a railway in Ireland (*x*), the company shall and they are hereby required, from time to time, before proceeding to construct any portion of the railway, to submit to the commissioners acting in execution of the said act of the sixth year of her present Majesty, or any act amending the same, such plans, sections and surveys as shall be necessary to enable the said commissioners to decide upon the number and adequacy of the waterways of all bridges, culverts, tunnels, watercourses and other works across the line of such portion as aforesaid of the railway, for the free and uninterrupted discharge of the waters from all lands crossed by or lying on either side of or near the railway, at such a level as shall, in the opinion of the said commissioners, be sufficient for the present and prospective drainage and improvement of such lands, and (in cases of rivers, lakes, estuaries or watercourses which are

(*u*) See also L. C. Act, 1845, s. 84, ante.

(*x*) See further special provisions as to such railways, 14 & 15 Vict. c. 70, post.

now or may be capable of being made navigable) upon the height and adequacy of all bridges and works crossing the same for the commodious navigation thereof.

*Commissioners to decide on works necessary for drainage.*

*Certificate.*

**26.** The said commissioners shall, and they are hereby required, without any unnecessary delay, to investigate, by such means as to them shall seem fit, the adequacy of all such works for such purposes as aforesaid, and to decide and certify, by a writing under their hands, or the hands of any two of them, the number, situation and least possible dimensions as to breadth, depth and height of the several openings of such bridges, culverts, tunnels, or other works connected with such portion of the railway as aforesaid, which shall be necessary for the passage of water or for navigation under or across such railway; and it shall not be lawful for the company to proceed with the execution of any of the works connected with any portion of the railway without having first obtained such certificate as aforesaid respecting such portion of the railway, under the hands of the said commissioners, or any two of them as aforesaid; nor shall the company be at liberty to deviate from such certificate in respect to such works, nor to execute the same otherwise than in conformity therewith, without the previous approbation in writing of the said commissioners.

*Commissioners may apply to Court of Chancery to enforce the execution of such works.*

**27.** It shall be lawful for the said commissioners to apply by petition in a summary way to the Court of Chancery, complaining of any omission on the part of the company to submit such plans, sections and surveys to the said commissioners as aforesaid, or of the omission to construct any such bridge, culvert, tunnel or other works for the passage of water, in such manner as shall be so certified by the said commissioners; and thereupon it shall be lawful for the said court to direct such works to be made or constructed by the company in such manner as shall be conformable to the certificate of the said commissioners, and to the said court shall seem necessary or proper, and to make from time to time such further or other order for restraining the company or any other persons from proceeding with any of the works connected with such portion of railway, except in conformity with the certificate of the said commissioners, and to issue any writ of injunction for the purpose aforesaid; and such court shall have power to award costs to be paid by such company or persons.

*Saving of powers of Commissioners.*

**28.** Nothing in this or the special act shall extend or be construed to prejudice or affect the powers or authorities of the commissioners acting in execution of the said act of the sixth year of her present Majesty, but all such powers shall be in full force as to the formation of any cut, river or watercourse across the railway; but such powers shall not be exercised so as to prevent or obstruct the working or using of the railway.

*Commissioners may decide questions as to execution of works for carrying water for manufacturing purposes under or above railway.*

**29.** And whereas it is expedient to encourage the establishment of manufactories to be worked by water power in Ireland: be it therefore enacted, That whenever it may be requisite for the formation of a watercourse for manufacturing purposes to construct an arch, culvert, tunnel or watercourse beneath, or an aqueduct above, any railway in Ireland, and that differences shall have arisen between the directors of such railway and the person interested in obtaining the water power, either as to the manner in which such works shall be executed, or the amount of compensation which should be paid, it shall be lawful to refer the questions in issue to the commissioners acting under the said recited act of the fifth and sixth years of the reign of her Majesty Queen Victoria, and their decision thereon shall be final and conclusive; and if the said commissioners shall be of opinion that the proposed works can be executed without injury to the railway, and if they shall think proper so to do, they may undertake the execution of so much of the said works as shall be in connection with such railway, at the expense of the parties for whose benefit the watercourse shall be made, with the same

powers and authorities as are given by the said act for the execution of any works for drainage.

*Temporary Use of Lands.*

And with respect to the temporary occupation of lands near the railway during the construction thereof, be it enacted as follows :—

Company may occupy temporarily private roads within 500 yards of railway.

**30.** Subject to the provisions herein and in the special act contained, it shall be lawful for the company, at any time before the expiration of the period by the special act limited for the completion of the railway, to enter upon and use any existing private road, being a road gravelled or formed with stones or other hard materials, and not being an avenue or a planted or ornamental road, or an approach to any mansion-house, within the prescribed limits, if any, or, if no limits be prescribed, not being more than five hundred yards distant from the centre of the railway as delineated on the plans ; but, before the company shall enter upon or use any such existing road, they shall give three weeks' notice of their intention to the owners and occupiers of such road, and of the lands over which the same shall pass, and shall in such notice state the time during which, and the purposes for which, they intend to occupy such road, and shall pay to the owners and occupiers of such road, and of the lands through which the same shall pass, such compensation for the use and occupation of such road, either in a gross sum of money or by half-yearly instalments, as shall be agreed upon between such owners and occupiers respectively and the company, or, in case they differ about the compensation, the same shall be settled by two justices, in the same manner as any compensation not exceeding fifty pounds is directed to be settled by the said Lands Clauses Consolidation Act.

Compensation, see sect. 43.

Power to owners to object that other roads should be taken.

**31.** It shall be lawful for the owners and occupiers of any such road, and of the lands over which the same passes, within ten days after the service of the aforesaid notice, by notice in writing to the company to object to the company making use of such road, on the ground that other roads, such as the company are hereinbefore authorized to use for the purposes aforesaid, or that some public road would be more fitting to be used for the same ; and, upon the objection being so made, such proceedings may be had as are hereinafter mentioned with respect to lands temporarily occupied by the company, in respect of which three weeks' notice is hereinafter required to be given, and in the same manner as if, in the provisions relative to such proceedings, the word "road" or "roads," or the words "road and the land over which the same passes," as the case may require, had been substituted in such provisions for the word "lands."

Power to take temporary possession of land, without previous payment of price. [See vol. I. ch. IV. s. 10.]

**32.** Subject to the provisions herein and in the special act contained, it shall be lawful for the company at any time before the expiration of the period by the special act limited for the completion of the railway, without making any previous payment, tender or deposit, to enter upon any lands within the prescribed limits, or if no limits be prescribed, not being more than two hundred yards distant from the centre of the railway as delineated on the plans, and not being a garden, orchard or plantation attached or belonging to a house, nor a park, planted walk, avenue or ground ornamentally planted, and not being nearer to the mansion-house of the owner of any such lands than the prescribed distance, or if no distance be prescribed, then not nearer than five hundred yards therefrom, and to occupy the said lands so long as may be necessary for the construction or repair of that portion of the railway, or of the accommodation works connected therewith, hereinafter mentioned, and to use the same for any of the following purposes : (that is to say),

For the purpose of taking earth or soil by side cuttings therefrom ;
For the purpose of depositing spoil thereon ;

For the purpose of obtaining materials therefrom for the construction or repair of the railway or such accommodation works as aforesaid; or

For the purpose of forming roads thereon to or from or by the side of the railway:

And in exercise of the powers aforesaid it shall be lawful for the company to deposit, and also to manufacture and work upon such lands materials of every kind used in constructing the railway, and also to dig and take from out of any such lands any clay, stone, gravel, sand or other things that may be found therein useful or proper for constructing the railway or any such roads as aforesaid, and for the purposes aforesaid to erect thereon workshops, sheds and other buildings of a temporary nature: Provided always, that nothing in this act contained shall exempt the company from an action for nuisance or other injury, if any, done in the exercise of the powers hereinbefore given, to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid: Provided also, that no stone or slate quarry, brick field or other like place, which, at the time of the passing of the special act, shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same, shall be taken or used by the company, either wholly or in part, for any of the purposes lastly hereinbefore mentioned.

Action for nuisance by party whose land not taken.

**33.** In case any such lands shall be required for spoil banks or for side cuttings, or for obtaining materials for the construction or repair of the railway, the company shall, before entering thereon (except in the case of accident to the railway requiring immediate reparation) give three weeks' notice in writing to the owners and occupiers of such lands of their intention to enter upon the same for such purposes; and in case the said lands are required for any of the other purposes hereinbefore mentioned, the company shall (except in the cases aforesaid) give ten days' like notice thereof, and the company shall, in such notices respectively, state the substance of the provisions hereinafter contained respecting the right of such owner or occupier to require the company to purchase any such lands, or to receive compensation for the temporary occupation thereof, as the case may be.

Company to give notice previous to such temporary possession.

**34.** The said notice shall either be served personally on such owners and occupiers, or left at their last usual place of abode, if any such can after diligent inquiry be found, and in case any such owner shall be absent from the United Kingdom, or cannot be found after diligent inquiry, shall also be left with the occupier of such lands, or if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

Service of notices on owners.

**35.** In any case in which a notice of three weeks is hereinbefore required to be given (*y*) it shall be lawful for the owner or occupier of the lands therein referred to, within ten days after the service of such notice, by notice in writing to the company, to object to the company making use of such lands, either on the ground that the lands proposed to be taken for the purposes aforesaid, or some part thereof, or of the materials contained therein, are essential to be retained by such owner, in order to the beneficial enjoyment of other neighbouring lands belonging to him, or on the ground that other lands lying contiguous or near to those proposed to be taken would be more fitting to be used for such purposes by the company; and upon objection being so made such proceedings may be had as hereinafter mentioned.

Power to owner to object that other lands should be taken.

(*y*) See sects. 30, 33, ante.

Power to two justices to order that the lands and materials shall not be taken

**36.** If the objection so made be on the ground that the lands proposed to be taken, or some part thereof, or of the materials contained therein, are essential to be retained by the owner in order to the beneficial enjoyment of other neighbouring lands belonging to him, it shall be lawful for any justice, on the application of such owner, to summon the company to appear before two justices at a time and place to be named in the summons, such time not being later than the expiration of the said twenty-one days' notice; and on the appearance of the company, or in their absence upon proof of due service of the summons, it shall be lawful for such justices to inquire into the truth of such ground of objection; and if it appear to such justices that for some special reason, to be stated in the order after mentioned, the lands so proposed to be taken, or any part thereof, or of the materials contained therein, are essential to be retained by the owner of such lands in order to the beneficial enjoyment of other neighbouring lands belonging to him, and ought not therefore to be taken or used by the company, it shall be lawful for such justices, by writing under their hands, to order that the lands so proposed to be taken, or some part thereof, or of the materials contained therein, to be specified in such order, shall not be taken or used by the company, and, after service of such order on the company, it shall not be lawful for them to take or use, without the previous consent in writing of the owner thereof, any of the lands or materials which by such order they are ordered not to take or use.

Power to justices to order other lands to be taken.

**37.** If the objection so made as aforesaid be on the ground that other lands lying contiguous to those proposed to be taken, and being sufficient in quantity, and such as the company are hereinbefore authorized to use for the purposes aforesaid, would be more fitting to be used by the company, and if in such case the company shall refuse to occupy such other lands in lieu of those mentioned in the notice, it shall be lawful for any justice, on the application of such owner or occupier, to summon the company and the owners and occupiers of such other lands to appear before two justices at a time and place to be named in such summons, such time not being more than fourteen days after such application, nor less than seven days from the service of such summons; and on the appearance of the parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such justices to determine summarily which of the said lands shall be used by the company for the purposes aforesaid, and to authorize the company to occupy and use the same accordingly.

Power to the justices to summon other owners before them.

**38.** If in the case last mentioned it shall appear to such justices, upon the inquiry before them, that the lands of any other party not summoned before them, being sufficient in quantity, and such as the company are hereinbefore authorized to take or use for the purposes aforesaid, would be more fitting to be used by the company than the lands of the person who shall have been so summoned as aforesaid, it shall be lawful for the said justices to adjourn such inquiry, and to summon such other person to appear before them at any time, not being more than fourteen days from such inquiry nor less than seven from the service of such summons; and on the appearance of the parties, or, in the absence of any of them, on proof of due service of the summons, it shall be lawful for such justices to determine finally which lands shall be used for the purposes aforesaid, and to authorize the company to occupy and use the same accordingly.

The company to give sureties, if required.

**39.** Before entering, under the provisions hereinbefore contained, upon any such lands as shall be required for spoil banks or for side cuttings, or for obtaining materials or forming roads as aforesaid, the company shall, if required by the owner or occupier thereof, seven days at least before the expiration of the notice to take such lands as hereinbefore mentioned, find

two sufficient persons, to be approved of by a justice, in case the parties differ, who shall enter into a bond to such owner or occupier, in a penalty of such amount as shall be approved of by such justice, in case the parties differ, conditioned for the payment of such compensation as may become payable in respect of the same in manner herein mentioned.

Company to separate the lands before using them.

**40.** Before the company shall use any such lands for any of the purposes aforesaid, they shall, if required so to do by the owner or occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto, with such gates as may be required by the said owner or occupier for the convenient occupation of such lands, and shall also, to all private roads used by them as aforesaid, put up fences and gates in like manner, in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads, and in case of any difference between the owners or occupiers of such roads and lands and the company as to the necessity for such fences and gates, such fences and gates as any two magistrates shall deem necessary for the purposes aforesaid, on application being made to them in like manner as hereinbefore is provided in respect to the use of such roads.

Fences.

Lands taken for getting materials, &c., to be worked as surveyor of owner may direct.

**41.** That, if any land shall be taken or used by the company, under the provisions of this or the special act, for the purpose of getting materials therefrom for the construction or repair of the railway, or the accommodation works connected therewith, they shall work the same in such manner as the surveyor or agent of the owner of such lands shall direct, or, in case of disagreement between such surveyor or agent and the company, in such manner as any justice shall direct, on the application of either party, after notice of the hearing the application shall have been give to the other party.

Owners may compel purchase of lands so temporarily occupied.

**42.** In all cases in which the company shall, in exercise of the powers aforesaid, enter upon any lands for the purpose of making spoil banks or side cuttings thereon, or for obtaining therefrom materials for the construction or repair of the railway, it shall be lawful for the owners or occupiers of such lands, or parties having such estates or interests therein as, under the provisions in the said Lands Clauses Consolidation Act mentioned, would enable them to sell or convey lands to the company, at any time during the possession of any such lands by the company, and before such owners or occupiers shall have accepted compensation from the company in respect of such temporary occupation, to serve a notice in writing on the company requiring them to purchase the said lands, or the estates and interests therein capable of being sold and conveyed by them respectively; and in such notice such owners or occupiers shall set forth the particulars of such their estate or interest in such lands and the amount of their claim in respect thereof; and the company shall thereupon be bound to purchase the said lands, or the estate and interest therein capable of being sold and conveyed by the parties serving such notice.

Compensation to be made for temporary occupation.

**43.** In any of the cases aforesaid, where the company shall not be required to purchase such lands, and in all other cases where they shall take temporary possession of lands by virtue of the powers herein or in the special act granted, it shall be incumbent on the company, within one month after their entry upon such lands, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of their so taking possession of his lands, and shall also from time to time, during their occupation of the said lands, pay half-yearly to such occupier or to the owner of the lands as the case may require, a rent to be fixed by two justices, in case the parties differ, and shall also within six months after

they shall have ceased to occupy the said lands, and not later than six months after the expiration of the time by the special act limited for the completion of the railway, pay to such owner and occupier, or deposit in the Bank for the benefit of all parties interested, as the case may require, compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise, as regards the said lands, of the powers herein, or in the special act granted, including the full value of all clay, stone, gravel, sand, and other things taken from such lands.

Compensation to be ascertained under the Lands Clauses Act.

8 Vict. c. 18, ante.

**44.** The amount and application of the purchase-money and other compensation payable by the company in any of the cases aforesaid shall be determined in the manner provided by the said Lands Clauses Consolidation Act for determining the amount and application of the compensation to be paid for lands taken under the provisions thereof.

*Lands for additional Stations.*

Land to be taken for additional stations, &c.

[See vol I ch IV. s. 2, and s. 12 of L. C. Act, p. 64, ante.]

**45.** And be it enacted, That it shall be lawful for the company, in addition to the lands authorized to be compulsorily taken by them under the powers of this or the special act, to contract with any party willing to sell the same, for the purchase of any land adjoining or near to the railway, not exceeding in the whole the prescribed number of acres for extraordinary purposes; (that is to say,)

For the purpose of making and providing additional stations, yards, wharfs, and places for the accommodation of passengers, and for receiving, depositing, and loading or unloading goods or cattle to be conveyed upon the railway, and for the erection of weighing-machines, toll-houses, offices, warehouses and other buildings and conveniences;

For the purpose of making convenient roads or ways to the railway, or any other purpose which may be requisite or convenient for the formation or use of the railway.

*Crossing of Roads and Construction of Bridges.*

And with respect to the Crossing of Roads, or other interference therewith, be it enacted as follows:—

Crossing of roads.

**46.** If the line of the railway cross any turnpike road or public highway, then (except where otherwise provided by the special act) either such road shall be carried over the railway, or the railway shall be carried over such road, by means of a bridge of the height and width, and with the ascent or descent, by this or the special act in that behalf provided; and such bridge, with the immediate approaches, and all other necessary works connected therewith, shall be executed, and at all times thereafter maintained, at the expense of the company: Provided always, that, with the consent of two or more justices in petty sessions, as after mentioned, it shall be lawful for the company to carry the railway across any highway, other than a public carriage road, on the level.

Level crossings.

Gates to be kept closed across road.

[See vol. I. ch. IX. s. 6.]

**47.** If the railway cross any turnpike road or public carriage road on a level, the company shall erect and at all times maintain good and sufficient gates across such road, on each side of the railway, where the same shall communicate therewith, and shall employ proper persons to open and shut such gates, and such gates shall be kept constantly closed across such road on both sides of the railway, except during the time when horses, cattle, carts or carriages passing along the same shall have to cross such railway; and such gates shall be of such dimensions and so constructed as when closed to fence in the railway, and prevent cattle or horses passing along the road from entering upon the railway; and the person intrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts or carriages shall have passed through the same, under a penalty

of forty shillings for every default therein: Provided always, that it shall be lawful for the Board of Trade, in any case in which they are satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road should be kept closed across the railway, to order that such gates shall be kept so closed, instead of across the road, and in such case such gates shall be constantly closed across the railway, except when engines or carriages passing along the railway shall have occasion to cross such road, in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road. Board of Trade may order gates to be closed across railway.

**48.** Where the railway crosses any turnpike road on a level adjoining to a station, all trains on the railway shall be made to slacken their speed before arriving at such turnpike road, and shall not cross the same at any greater rate of speed than four miles an hour; and the company shall be subject to all such rules and regulations, with regard to such crossings, as may from time to time be made by the Board of Trade. Crossing of turnpike roads near stations. Speed.

**49.** Every bridge to be erected for the purpose of carrying the railway over any road shall (except where otherwise provided by the special act) be built in conformity with the following regulations (that is to say), Bridges over roads.

The width of the arch shall be such as to leave thereunder a clear space of not less than thirty-five feet if the arch be over a turnpike road, and of twenty-five feet if over a public carriage road, and of twelve feet if over a private road; Width and height of arches, &c. [See vol. I. ch. IX. s. 4.]

The clear height of the arch from the surface of the road shall not be less than sixteen feet for a space of twelve feet if the arch be over a turnpike road, and fifteen feet for a space of ten feet if over a public carriage road; and in each of such cases the clear height at the springing of the arch shall not be less than twelve feet;

The clear height of the arch for a space of nine feet shall not be less than fourteen feet over a private carriage road;

The descent made in the road in order to carry the same under the bridge shall not be more than one foot in thirty feet if the bridge be over a turnpike road, one foot in twenty feet if over a public carriage road, and one foot in sixteen feet if over a private carriage road, not being a tramroad or railroad, or, if the same be a tramroad or railroad, the descent shall not be greater than the prescribed rate of inclination, and, if no rate be prescribed, the same shall not be greater than as it existed at the passing of the special act.

**50.** Every bridge erected for carrying any road over the railway shall (except as otherwise provided by the special act) be built in conformity with the following regulations (that is to say), Bridges over railway. Fences, &c.

There shall be a good and sufficient fence on each side of the bridge of not less height than four feet, and on each side of the immediate approaches of such bridge of not less than three feet;

The road over the bridge shall have a clear space between the fences thereof of thirty-five feet if the road be a turnpike road, and twenty-five feet if a public carriage road, and twelve feet if a private road;

The ascent shall not be more than one foot in thirty feet if the road be a turnpike road, one foot in twenty feet if a public carriage road, and one foot in sixteen feet if a private carriage road, not being a tramroad or railroad, or, if the same be a tramroad or railroad, the ascent shall not be greater than the prescribed rate of inclination, and, if no rate be prescribed, the same shall not be greater than as it existed at the passing of the special act.

**51.** Provided always, That, in all cases where the average available width for the passage of carriages of any existing roads within fifty yards of the Width of bridges need not exceed width of road in certain cases.

points of crossing the same is less than the width hereinbefore prescribed for bridges under or over the railway, the width of such bridges need not be greater than such average available width of such roads, but so, nevertheless, that such bridges be not of less width, in the case of a turnpike road, or public carriage road, than twenty feet: Provided also, That, if at any time after the construction of the railway the average available width of any such road shall be increased beyond the width of such bridge on either side thereof, the company shall be bound, at their own expense, to increase the width of the said bridge to such extent as they may be required by the trustees or surveyors of such road, not exceeding the width of such road as so widened, or the maximum width herein or in the special act prescribed for a bridge in the like case over or under the railway.

Existing inclinations of roads crossed or diverted need not be improved.

**52.** Provided also, That, if the mesne inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may require to be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the company, then the company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mesne inclination of the road so to be crossed, or of the road so requiring to be altered, or for which another road shall be substituted.

Before roads interfered with, others to be substituted.

**53.** If, in the exercise of the powers by this or the special act granted, it be found necessary to cross, cut through, raise, sink or use any part of any road, whether carriage road, horse road, tramroad or railway, either public or private, so as to render it impassable for or dangerous or extraordinarily inconvenient to passengers or carriages, or to the persons entitled to the use thereof, the company shall, before the commencement of any such operations, cause a sufficient road to be made instead of the road to be interfered with, and shall at their own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Penalty for not substituting a road.

**54.** If the company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted; and such penalty shall be paid to the trustees, commissioners, surveyor or other person having the management of such road, if a public road, and shall be applied for the purposes thereof, or, in case of a private road, the same shall be paid to the owner thereof, and every such penalty shall be recoverable, with costs, by action in any of the superior courts.

Party suffering special damage from interruption of road may recover by action.

**55.** If any party, entitled to a right of way over any road so interfered with by the company, shall suffer any special damage by reason that the company shall fail to cause another sufficient road to be made before they interfere with the existing road, it shall be lawful for such party to recover the amount of such special damage from the company, with costs, by action on the case in any of the superior courts, and that, whether any party shall have sued for such penalty as aforesaid or not, and without prejudice to the right of any party to sue for the same.

Period for restoration of roads interfered with.

**56.** If the road so interfered with can be restored compatibly with the formation and use of the railway, the same shall be restored to as good a condition as the same was in at the time when the same was first interfered with by the company, or as near thereto as may be; and if such road cannot be restored compatibly with the formation and use of the railway, the company shall cause the new or substituted road, or some other sufficient substituted road, to be put into a permanently substantial condition, equally convenient as the former road, or as near thereto as circumstances will

allow; and the former road shall be restored, or the substituted road put into such condition as aforesaid, as the case may be, within the following periods after the first operation on the former road shall have been commenced, unless the trustees or parties having the management of the road to be restored, by writing under their hands, consent to an extension of the period, and in such case, within such extended period; (that is to say,) if the road be a turnpike road, within six months, and, if the road be not a turnpike road, within twelve months.

Penalty for failing to restore road.

**57.** If any such road be not so restored, or the substituted road so completed, as aforesaid, within the periods herein or in the special act fixed for that purpose, the company shall forfeit to the trustees, commissioners, surveyor or other person having the management of the road interfered with by the company, if a public road, or, if a private road, to the owner thereof, five pounds for every day after the expiration of such periods respectively during which such road shall not be so restored, or the substituted road completed; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole, or any part thereof, to be laid out in executing the work in respect whereof such penalty was incurred.

Company to repair roads used by them.

**58.** If, in the course of making the railway, the company shall use or interfere with any road, they shall from time to time make good all damage done by them to such road; and if any question shall arise as to the damage done to any such road by the company, or as to the repair thereof by them, such question shall be referred to the determination of two justices; and such justices may direct such repairs to be made in the state of such road, in respect of the damage done by the company, and within such period as they think reasonable, and may impose on the company, for not carrying into effect such repairs, any penalty not exceeding five pounds per day, as to such justices shall seem just; and such penalty shall be paid to the surveyor or other person having the management of the road interfered with by the company, if a public road, and be applied for the purposes of such road, or, if a private road, the same shall be paid to the owner thereof: Provided always, that in determining any such question with regard to a turnpike road, the said justices shall have regard to and shall make full allowance for any tolls that may have been paid by the company on such road in the course of the using thereof.

Proceedings on application to justices to consent to level crossings of bridleways and footways.

**59.** When the company shall intend to apply for the consent of two justices, as hereinbefore provided,[x] so as to authorize them to carry the railway across any highway other than a public carriage road on the level, they shall, fourteen days at least previous to the holding of the petty sessions at which such application is intended to be made, cause notice of such intended application to be given in some newspaper circulating in the county, and also to be affixed upon the door of the parish church of the parish in which such crossing is intended to be made, or, if there be no such church, some other place to which notices are usually affixed; and if it appear to any two or more justices acting for the district in which such highway, at the proposed crossing thereof, is situate, and assembled in petty sessions, after such notice as aforesaid, that the railway can, consistently with a due regard to the public safety and convenience, be carried across such highway on the level, it shall be lawful for such justices to consent that the same may be so carried accordingly.

[x] Sect. 46.

Appeal to quarter sessions.

**60.** If either party shall feel aggrieved by the determination of such justices upon any such application as aforesaid, it shall be lawful for such party, in like manner, and subject to the like conditions as are hereinafter provided in the case of appeals, in respect of penalties and forfeitures,* to appeal to the quarter sessions of the county or place in which the cause of appeal shall have arisen; and it shall be lawful for the justices in such quarter

* Sect. 157.

sessions, upon the hearing of such appeal, either to confirm or quash the determination, or to make such other order in regard to the method of carrying the railway across such highway as aforesaid as to them shall seem fit, and to make such order concerning the costs both of the original application and of the appeal as to them shall seem reasonable.

Company to make sufficient approaches and fences to bridleways and footways crossing on the level.

**61.** If the railway shall cross any highway other than a public carriageway on the level, the company shall at their own expense make and at all times maintain convenient ascents and descents and other convenient approaches, with handrails or other fences, and shall, if such highway be a bridleway, erect and at all times maintain good and sufficient gates, and, if the same shall be a footway, good and sufficient gates or stiles, on each side of the railway where the highway shall communicate therewith.

Justices may order approaches and fences to be made to highways crossing on the level.

**62.** If, where the railway shall cross any highway on the level, the company fail to make convenient ascents and descents or other convenient approaches, and such handrails, fences, gates and stiles as they are hereinbefore required to make, it shall be lawful for two justices, on the application of the surveyor of roads, or of any two householders within the parish or district where such crossing shall be situate, after not less than ten days' notice to the company, to order the company to make such ascent and descent or other approach, or such handrails, fences, gates or stiles as aforesaid, within a period to be limited for that purpose by such justices; and, if the company fail to comply with such order, they shall forfeit five pounds for every day that they fail so to do; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be applied, in such manner and by such person as they think fit, in executing the work in respect whereof such penalty was incurred.

*Screens for Turnpike Roads.*

Screens for roads to be made, if required by Board of Trade.

**63.** If the commissioners or trustees of any turnpike road, or the surveyor of any highway, apprehend danger to the passengers on such road in consequence of horses being frightened by the sight of the engines or carriages travelling upon the railway, it shall be lawful for such commissioners, or trustees, or surveyor, after giving fourteen days' notice to the company, to apply to the Board of Trade with respect thereto; and if it shall appear to the said Board that such danger might be obviated or lessened by the construction of any works in the nature of a screen near to or adjoining the side of such road, it shall be lawful for them, if they shall think fit, to certify the works necessary or proper to be executed by the company for the purpose of obviating or lessening such danger, and by such certificate to require the company to execute such works within a certain time after the service of such certificate, to be appointed by the said Board.

Penalty for failing to construct screen.

**64.** Where, by any such certificate as aforesaid, the company shall have been required to execute any such work in the nature of a screen, they shall execute and complete the same within the period appointed for that purpose in such certificate; and, if they fail so to do, they shall forfeit to the said commissioners, or trustees, or surveyor, five pounds for every day during which such works shall remain uncompleted beyond the period so appointed for their completion; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be laid out in executing the work in respect whereof such penalty was incurred.

*Construction of Bridges.*

Justices may order repair of bridges, &c.

**65.** Where, under the provisions of this or the special act, or any act incorporated therewith, the company are required to maintain or keep in repair any bridge, fence, approach, gate or other work executed by them, it shall be lawful for two justices, on the application of the surveyor of roads, or of any two householders of the parish or district where such work may be situate, complaining that any such work is out of repair, after not less than ten days' notice to the company, to order the company to put such work into complete repair within a period to be limited for that purpose by

such justices; and, if the company fail to comply with such order, they shall forfeit five pounds for every day that they fail so to do (*z*): and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be applied, in such manner and by such persons as they think fit, in putting such work into repair.

Board of Trade may modify construction of certain roads, bridges, &c., where strict compliance with act impossible or inconvenient.

**66**. And whereas expense might frequently be avoided, and public convenience promoted, by a reference to the Board of Trade upon the construction of public works of an engineering nature connected with the railway, where a strict compliance with the provisions of this or the special act might be impossible, or attended with inconvenience to the company, and without adequate advantage to the public; be it enacted, That, in case any difference in regard to the construction, alteration or restoration of any road or bridge, or other public work of an engineering nature, required by the provisions of this or the special act, shall arise between the company and any trustees, commissioners, surveyors or other persons having the control of or being authorized by law to enforce the construction of such road, bridge or work, it shall be lawful for either party, after giving fourteen days' notice in writing of their intention so to do to the other party, to apply to the Board of Trade to decide upon the proper manner of constructing, altering or restoring such road, bridge or other work; and it shall be lawful for the Board of Trade, if they shall think fit, to decide the same accordingly, and to authorize, by certificate in writing, any arrangement or mode of construction in regard to any such road, bridge or other work which shall appear to them either to be in substantial compliance with the provisions of this and the special act, or to be calculated to afford equal or greater accommodation to the public using such road, bridge or other work; and after any such certificate shall have been given by the Board of Trade, the road, bridge or other work therein mentioned shall be constructed by the company in conformity with the terms of such certificate, and, being so constructed, shall be deemed to be constructed in conformity with the provisions of this and the special act: Provided always, that no such certificate shall be granted by the Board of Trade unless they shall be satisfied that existing private rights or interests will not be injuriously affected thereby.

Authentication of certificates of the Board of Trade, service of notices, &c. *a*).

**67**. And be it enacted, That all regulations, certificates, notices, and other documents in writing purporting to be made or issued by or by the authority of the Board of Trade, and signed by some officer appointed for that purpose by the Board of Trade, shall, for the purposes of this and the special act, and any act incorporated therewith, be deemed to have been so made and issued, and that without proof of the authority of the person signing the same, or of the signature thereto, which matters shall be presumed until the contrary be proved; and service of any such document by leaving the same at one of the principal offices of the railway company, or by sending the same by post addressed to the secretary at such office, shall be deemed good service upon the company; and all notices and other documents required by this or the special act to be given to or laid before the Board of Trade shall be delivered at, or sent by post addressed to, the office of the Board of Trade in London.

*Accommodation Works.*

And with respect to Works for the Accommodation of lands adjoining the railway, be it enacted as follows:—

[See vol. I. ch. IX. s. 7.]

**68**. The company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway; (that is to say,)

(*z*) See *Bristol and Exeter R. Co.* v. *Tucker*, 13 C. B. (N. S.) 207; 7 Law T. 464, where a conviction under this section and sect. 145 was affirmed.

(*a*) See also 31 & 32 Vict. c. 119, s. 26 post.

Gates, bridges, &c.;

Such and so many convenient gates, bridges, arches, culverts and passages over, under or by the sides of or leading to or from the railway as shall be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway shall be made; and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed, or during the formation thereof;

fences;

Also sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereout, by reason of the railway, together with all necessary gates made to open towards such adjoining lands, and not towards the railway, and all necessary stiles; and such posts, rails and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be;

drains;

Also all necessary arches, tunnels, culverts, drains or other passages, either over or under or by the sides of the railway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be; and such works shall be made from time to time as the railway works proceed;

watering-place

Also proper watering-places for cattle, where, by reason of the railway, the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering-places; and such watering-places shall be so made as to be at all times as sufficiently supplied with water as theretofore, and as if the railway had not been made, or as nearly so as may be; and the company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering-places;

Provided always, that the company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the railway, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive and shall have been paid compensation instead of the making them.

Differences as to accommodation works, settled by justices.

**69.** If any difference arise respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof, or respecting the maintaining thereof, the same shall be determined by two justices; and such justices shall also appoint the time within which such works shall be commenced and executed by the company.

Execution of works by owners on default by the company.

**70.** If for fourteen days next after the time appointed by such justices for the commencement of any such works the company shall fail to commence such works, or having commenced, shall fail to proceed diligently to execute the same in a sufficient manner, it shall be lawful for the party aggrieved by such failure himself to execute such works or repairs; and the reasonable expenses thereof shall be repaid by the company to the party by whom the same shall so have been executed; and, if there be any dispute about such expenses, the same shall be settled by two justices: Provided always, that no such owner or occupier or other person shall obstruct or injure the railway, or any of the works connected therewith, for a longer time, nor use them in any other manner, than is unavoidably necessary for the execution or repair of such accommodation works.

Power to owners of land to make additional accommodation works.

**71.** If any of the owners or occupiers of lands affected by such railway shall consider the accommodation works made by the company, or directed

by such justices to be made by the company, insufficient for the commodious use of their respective lands, it shall be lawful for any such owner or occupier, at any time, at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the company, or, in case of difference, as shall be authorized by two justices.

**72.** If the company so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of their engineer, and according to plans and specifications to be submitted to and approved by such engineer; nevertheless the company shall not be entitled to require, either that plans should be adopted which would involve a greater expense than that incurred in the execution of similar works by the company, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the company.

Such works to be constructed under the superintendence of the company's engineer.

**73.** The company shall not be compelled to make any further or additional accommodation works for the use of owners and occupiers of land adjoining the railway after the expiration of the prescribed period, or, if no period be prescribed, after five years from the completion of the works, and the opening of the railway for public use.

Accommodation works not to be required after five years.

**74.** Until the company shall have made the bridges or other proper communications which they shall, under the provisions herein, or in the special act, or any act incorporated therewith, contained, have been required to make between lands intersected by the railway, and no longer, the owners and occupiers of such lands, and any other persons whose right of way shall be affected by the want of such communication, and their respective servants, may at all times freely pass and repass, with carriages, horses and other animals, directly (but not otherwise) across the part of the railway made in or through their respective lands, solely for the purpose of occupying the same lands, or for the exercise of such right of way, and so as not to obstruct the passage along the railway, or to damage the same; nevertheless if the owner or occupier of any such lands have in his arrangements with the company received or agreed to receive compensation for or on account of any such communications, instead of the same being formed, such owner or occupier, or those claiming under him, shall not be entitled so to cross the railway.

Owners may cross railway until accommodation works are made.

**75.** If any person omit to shut and fasten any gate set up at either side of the railway, for the accommodation of the owners or occupiers of the adjoining lands, as soon as he, and the carriage, cattle or other animals, under his care, have passed through the same, he shall forfeit for every such offence any sum not exceeding forty shillings.

Penalty on persons omitting to fasten gates.

*Branch Railways*

**76.** And be it enacted, That this or the special act shall not prevent the owners or occupiers of lands adjoining to the railway, or any other persons, from laying down, either upon their own lands or upon the lands of other persons, with the consent of such persons, any collateral branches of railway to communicate with the railway, for the purpose of bringing carriages to or from or upon the railway, but under and subject to the provisions and restrictions of 5 & 6 Vict. c. 55*; and the company shall, if required, at the expense of such owners and occupiers and other persons, and subject also to the provisions of the said last-mentioned act, make openings in the rails, and such additional lines of rail as may be necessary for effecting such communication in places where the communication can be made with safety to the public, and without injury to the railway, and without inconvenience to the traffic thereon; and the company shall not take any rate or toll or other monies for the passing of any passengers, goods, or other things, along any branch so to be made by any such owner or occupier or other person; but this enactment shall be subject to the following restrictions and conditions: (that is to say,)

Power to parties to make private branch railways communicating with the railway

* Ante, p. 15.

Restrictions and conditions.

No such branch railway shall run parallel to the railway;

The company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere, nor upon any inclined plane or bridge, nor in any tunnel;

The persons making or using such branch railways shall be subject to all bye-laws and regulations of the company from time to time made with respect to passing upon or crossing the railway, and otherwise; and the persons making or using such branch railways shall be bound to construct, and from to time, as need may require, to renew, the offset plates and switches according to the most approved plan adopted by the company, and under the direction of their engineer.

*Working of Mines.*

And with respect to Mines lying under or near the railway, be it enacted as follows:—

Company not entitled to minerals. [See vol I. ch. V. s 4.]

**77.** The company shall not be entitled to any mines of coal, ironstone, slate or other minerals under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the works, unless the same shall have been expressly purchased; and all such mines, excepting as aforesaid, shall be deemed to be excepted out of the conveyance of such lands, unless they shall have been expressly named therein and conveyed thereby.

Mines lying near the railway not to be worked if the company willing to purchase them.

**78.** If the owner, lessee or occupier of any mines or minerals lying under the railway, or any of the works connected therewith, or within the prescribed distance, or where no distance shall be prescribed, forty yards therefrom, be desirous of working the same, such owner, lessee, or occupier shall give to the company notice in writing of his intention so to do thirty days before the commencement of working; and upon the receipt of such notice it shall be lawful for the company to cause such mines to be inspected by any person appointed by them for the purpose; and if it appear to the company that the working of such mines or minerals is likely to damage the works of the railway, and if the company be willing to make compensation for such mines or any part thereof to such owner, lessee, or occupier thereof, then he shall not work or get the same; and if the company, and such owner, lessee, or occupier do not agree as to the amount of such compensation, the same shall be settled as in other cases of disputed compensation.

If company unwilling to purchase owner may work the mines.

**79.** If before the expiration of such thirty days the company do not state their willingness to treat with such owner, lessee, or occupier for the payment of such compensation, it shall be lawful for him to work the said mines or any part thereof for which the company shall not have agreed to pay compensation, so that the same be done in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the district where the same shall be situate; and if any damage or obstruction be occasioned to the railway or works by improper working of such mines, the same shall be forthwith repaired or removed, as the case may require, and such damage made good, by the owner, lessee or occupier of such mines or minerals, and at his own expense; and if such repair or removal be not forthwith done, or, if the company shall so think fit, without waiting for the same to be done by such owner, lessee or occupier, it shall be lawful for the company to execute the same, and recover from such owner, lessee or occupier the expense occasioned thereby, by action in any of the superior courts.

Mining communications.

**80.** If the working of any such mines under the railway or works, or within the above-mentioned distance therefrom, be prevented as aforesaid by reason of apprehended injury to the railway, it shall be lawful for the

respective owners, lessees and occupiers of such mines, and whose mines shall extend so as to lie on both sides of the railway, to cut and make such and so many airways, headways, gateways or water levels through the mines, measures, or strata, the working whereof shall be so prevented, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water level shall be of greater dimensions or section than the prescribed dimensions and sections, and, where no dimensions shall be described, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the railway or works, or so as to injure the same, or to impede the passage thereon.

Compensation for injury to mines

**81**. The company shall from time to time pay to the owner, lessee or occupier of any such mines extending so as to lie on both sides of the railway all such additional expenses and losses as shall be incurred by such owner, lessee or occupier by reason of the severance of the lands lying over such mines by the railway, or of the continuous working of such mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the railway, and for any minerals not purchased by the company which cannot be obtained by reason of making and maintaining the railway; and if any dispute or question shall arise between the company and such owner, lessee or occupier as aforesaid, touching the amount of such losses or expenses, the same shall be settled by arbitration.

Compensation for airway or other work made necessary by railway.

**82**. If any loss or damage be sustained by the owner or occupier of the lands lying over any such mines the working whereof shall have been so prevented as aforesaid (and not being the owner, lessee or occupier of such mines), by reason of the making of any such airway or other work as aforesaid, which or any like work would not have been necessary to be made but for the working of such mines having been so prevented as aforesaid, the company shall make full compensation to such owner or occupier of the surface lands for the loss or damage so sustained by him.

Power to company to enter and inspect the working of mines.

**83**. For better ascertaining whether any such mines are being worked or have been worked so as to damage the railway or works, it shall be lawful for the company, after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the railway passes wherein any such mines are being worked or are supposed so to be, and to enter into and return from any such mines or the works connected therewith; and for that purpose it shall be lawful for them to make use of any apparatus or machinery belonging to the owner, lessee or occupier of such mines, and to use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked or about so to be.

Penalty for refusal to inspect.

**84**. If any such owner, lessee or occupier of any such mine shall refuse to allow any person appointed by the company for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall for every such refusal forfeit to the company a sum not exceeding twenty pounds.

If mines worked contrary to act, company may require works for safety of railway.

**85**. If it appear that any such mines have been worked contrary to the provisions of this or the special act, the company may, if they think fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the railway, and preventing injury thereto; and if after such notice any such owner, lessee or occupier do not forthwith proceed to construct the works necessary for making safe the railway, the company may themselves construct such works, and recover the expense thereof from such owner, lessee or occupier, by action in any of the superior courts.

*Carriage.*

And with respect to the carrying of Passengers and Goods upon the railway, and the Tolls to be taken thereon, be it enacted as follows :—

Company may employ engines, carriages, &c. [See vol. I., ch. XVI.]

Charges. [See vol. I, ch. XII., s. 4.]

**86** It shall be lawful for the company to use and employ locomotive engines or other moving power, and carriages and waggons to be drawn or propelled thereby, and to carry and convey upon the railway all such passengers and goods as shall be offered to them for that purpose, and to make such reasonable charges in respect thereof as they may from time to time determine upon, not exceeding the tolls by the special act authorized to be taken by them.

Company may contract with other companies. [See vol I. ch. XIV. sect. 1.]

**87.** It shall be lawful for the company from time to time to enter into any contract with any other company, being the owners or lessees or in possession of any other railway, for the passage over or along the railway by the special act authorized to be made of any engines, coaches, waggons or other carriages of any other company, or which shall pass over any other line of railway, or for the passage over any other line of railway of any engines, coaches, waggons or other carriages of the company, or which shall pass over their line of railway, upon the payment of such tolls and under such conditions and restrictions as may be mutually agreed upon ; and for the purpose aforesaid it shall be lawful for the respective parties to enter into any contract for the division or apportionment of the tolls to be taken upon their respective railways.

Contracts not to affect persons not parties thereto.

**88.** Provided always, That no such contract as aforesaid shall in any manner alter, affect, increase or diminish any of the tolls which the respective companies, parties to such contracts, shall for the time being be respectively authorized and entitled to demand or receive from any person or any other company, but that all other persons and companies shall, notwithstanding any such contract, be entitled to the use and benefit of any of the said railways, upon the same terms and conditions, and on payment of the same tolls as they would have been in case no such contract had been entered into.

Company not to be liable further than common carriers.

**89.** Nothing in this or the special act contained shall extend to charge or make liable the company further or in any other case than where, according to the laws of the realm, stage-coach proprietors and common carriers would be liable, nor shall extend in any degree to deprive the company of any protection or privilege which common carriers or stage-coach proprietors may be entitled to ; but, on the contrary, the company shall at all times be entitled to the benefit of every such protection and privilege.

Power to vary tolls.

"Equality clause." [See vol. I. ch. XII. s. 5.]

**90.** And whereas it is expedient that the company should be enabled to vary the tolls upon the railway so as to accommodate them to the circumstances of the traffic, but that such power of varying should not be used for the purpose of prejudicing or favouring particular parties, or for the purpose of collusively and unfairly creating a monopoly, either in the hands of the company or of particular parties : it shall be lawful, therefore, for the company, subject to the provisions and limitations herein and in the special act contained, from time to time to alter or vary the tolls by the special act authorised to be taken, either upon the whole or upon any particular portions of the railway, as they shall think fit : Provided that all such tolls be at all times charged equally (*b*) to all persons, and after the same rate, whether per ton per mile or otherwise, in respect of all passengers and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine, passing only over the same portion of the line of railway under the same circumstances : and no reduction or advance in any such tolls shall be made either directly or indirectly in

(*b*) See Railway and Canal Traffic Act, 1854, 17 & 18 Vict. c. 31, post.

favour of or against any particular company or person travelling upon or using the railway.

**91.** And whereas authority has been given by various acts of Parliament to railway companies to demand tolls for the conveyance of passengers and goods, and for other services, over the fraction of a mile equal to the toll which they are authorized to demand for one mile; therefore, in cases in which any railway shall be amalgamated with any other adjoining railway or railways, such tolls shall be calculated and imposed at such rates as if such amalgamated railways had originally formed one line of railway.

Calculation of tolls where railways amalgamated.

**92.** It shall not be lawful for the company at any time to demand or take a greater amount of toll, or make any greater charge for the carriage of passengers or goods, than they are by this and the special act authorized to demand; and upon payment of the tolls from time to time demandable, all companies and persons shall be entitled to use the railway, with engines and carriages properly constructed as by this and the special act directed, subject nevertheless to the provisions and restrictions of the said act of the sixth year of her present Majesty, intituled "An Act for the better regulation of Railways, and for the Conveyance of Troops,"* and to the regulations to be from time to time made by the company by virtue of the powers in that behalf hereby and by the special act conferred upon them.

Restriction on charges.

Railway to be open to all.

[See vol. I. ch. XII. s. 1.]

* Page 15

**93.** A list of all the tolls authorised by the special act to be taken, and which shall be exacted by the company, shall be published by the same being painted upon one toll-board or more, in distinct black letters on a white ground, or white letters on a black ground, or by the same being printed in legible characters on paper affixed to such board, and by such board being exhibited in some conspicuous place on the stations or places where such tolls shall be made payable (*d*).

Tolls to be exhibited on a board.

**94.** The company shall cause the length of the railway to be measured, and milestones, posts or other conspicuous objects to be set up and maintained along the whole line thereof, at the distance of one quarter of a mile from each other, with numbers or marks inscribed thereon denoting such distances.

Milestones

**95.** No tolls shall be demanded or taken by the company for the use of the railway during any time at which the boards hereinbefore directed to be exhibited shall not be so exhibited, or at which the milestones hereinbefore directed to be set up and maintained shall not be so set up and maintained; and if any person wilfully pull down, deface or destroy any such board or milestone he shall forfeit a sum not exceeding five pounds for every such offence.

Tolls to be taken only whilst board exhibited and milestones set up.

**96.** The tolls shall be paid to such persons and at such places upon or near to the railway, and in such manner and under such regulations, as the company shall by notice to be annexed to the list of tolls, appoint.

Tolls paid as directed by company.

**97.** If, on demand, any person fail to pay the tolls due in respect of any carriage or goods, it shall be lawful for the company to detain and sell such carriage, or all or any part of such goods, or if the same shall have been removed from the premises of the company, to detain and sell any other carriages or goods within such premises belonging to the party liable to pay such tolls, and out of the monies arising from such sale to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus, if any, of the monies arising by such sale, and such of the carriages or goods as shall remain unsold, to the person entitled thereto; or it shall be lawful for the company to recover any such tolls by action at law.

In default of payment of tolls, goods, &c., may be detained and sold.

(*d*) As to publication of fares, see Act of 1868, 31 & 32 Vict. c. 119, s. 15, post; and as to publication of rates for goods, see Act of 1873, 36 & 37 Vict. c. 48, s. 14, post.

Account of lading, &c., to be given.

98. Every person being the owner or having the care of any carriage or goods passing or being upon the railway shall, on demand, give to the collector of tolls, at the places where he attends for the purpose of receiving goods or of collecting tolls for the part of the railway on which such carriage or goods may have travelled, or be about to travel, an exact account in writing, signed by him, of the number or quantity of goods conveyed by any such carriage, and of the point on the railway from which such carriage or goods have set out, or are about to be set out, and at what point the same are intended to be unloaded or taken off the railway; and if the goods conveyed by any such carriage, or brought for conveyance as aforesaid, be liable to the payment of different tolls, then such owner or other person shall specify the respective numbers or quantities thereof liable to each or any of such tolls.

Penalty for not giving account of lading.

99. If any such owner or other such person fail to give such account, or to produce his way-bill or bill of lading, to such collector or other officer or servant of the company demanding the same, or if he give a false account, or if he unload or take off any part of his lading or goods at any other place than shall be mentioned in such account, with intent to avoid the payment of any tolls payable in respect thereof, he shall for every such offence forfeit to the company a sum not exceeding ten pounds for every ton of goods, or for any parcel not exceeding one hundred weight, and so in proportion for any less quantity of goods than one ton, or for any parcel exceeding one hundred weight (as the case may be) which shall be upon any such carriage; and such penalty shall be in addition to the toll to which such goods may be liable.

Disputes as to amount of tolls.

100. If any dispute arise concerning the amount of the tolls due to the company, or concerning the charges occasioned by any detention or sale thereof under the provisions herein or in the special act contained, the same shall be settled by a justice; and it shall be lawful for the company in the meanwhile to detain the goods, or (if the case so require) the proceeds of the sale thereof.

Differences as to weights, &c.

101. If any difference arise between any toll-collector or other officer or servant of the company and any owner of or person having the charge of any carriage passing or being upon the railway, or of any goods conveyed or to be conveyed by such carriage, respecting the weight, quantity, quality or nature of such goods, such collector or other officer may lawfully detain such carriage or goods, and examine, weigh, gauge or otherwise measure the same; and if upon such measuring or examination such goods appear to be of greater weight or quantity, or of other nature than shall have been stated in the account given thereof, then the person who shall have given such account shall pay, and the owner of such carriage, or the respective owners of such goods, shall also, at the option of the company, be liable to pay the costs of such measuring and examining; but if such goods appear to be of the same or less weight or quantity than, and of the same nature as shall have been stated in such account, then the company shall pay such costs, and they shall also pay to such owner of or person having charge of such carriage, and to the respective owners of such goods, such damage (if any) as shall appear to any justice, on a summary application to him for that purpose, to have arisen from such detention.

Toll-collector to be liable for wrongful detention of goods.

102. If at any time it be made to appear to any justice, upon the complaint of the company, that any such detention, measuring or examining of any carriage or goods, as hereinbefore mentioned, was without reasonable ground, or that it was vexatious on the part of such collector or other officer, then the collector or other officer shall himself pay the costs of such detention and measuring, and the damage occasioned thereby; and in default of immediate payment of any such costs or damage, the same may

be recovered by distress of the goods of such collector, and such justice shall issue his warrant accordingly.

Penalty for eluding payment of fare. [See vol I. ch. XII. s. 16.]

**103.** If any person travel or attempt to travel in any carriage of the company, or of any other company or party using the railway, without having previously paid his fare, and with intent to avoid payment thereof, or if any person, having paid his fare for a certain distance, knowingly and wilfully proceed in any such carriage beyond such distance, without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof, or if any person knowingly and wilfully refuse or neglect on arriving at the point to which he has paid his fare, to quit such carriage, every such person shall for every such offence forfeit to the company a sum not exceeding forty shillings.

Detention of offenders.

**104.** If any person be discovered either in or after committing or attempting to commit any such offence as in the preceding enactment mentioned, all officers and servants and other persons on behalf of the company, or such other company or party as aforesaid, and all constables, gaolers and peace officers, may lawfully apprehend and detain such person until he can conveniently be taken before some justice, or until he be otherwise discharged by due course of law.

Dangerous goods, company not required to carry.

**105.** No person shall be entitled to carry or to require the company to carry upon the railway any aquafortis, oil of vitriol, gunpowder, lucifer matches or any other goods which in the judgment of the company may be of a dangerous nature; and if any person send by the railway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the bookkeeper or other servant of the company with whom the same are left, at the time of so sending, he shall forfeit to the company twenty pounds for every such offence; and it shall be lawful for the company to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

Penalty.

Toll-collector dying, &c., his representatives must give up books, &c.

**106.** If any collector of tolls, or other officer employed by the company, be discharged or suspended from his office, or die, abscond or absent himself, and if such collector or other officer, or the wife, widow or any of the family or representatives of any such collector or other officer, refuse or neglect, after seven days' notice in writing for that purpose, to deliver up to the company, or to any person appointed by them for that purpose, any station, dwelling-house, office or other building, with its appurtenances, or any books, papers or other matters belonging to the company in the possession or custody of any such collector or officer at the occurrence of any such event as aforesaid, then, upon application being made by the company to any justice, it shall be lawful for such justice to order any constable, with proper assistance, to enter upon such station or other building, and to remove any person found therein, and to take possession thereof, and of any such books, papers or other matters, and to deliver the same to the company, or any person appointed by them for that purpose.

Annual account, copy of, to be transmitted to clerk of the peace, &c., if required.

**107.** And be it enacted, That the company shall every year cause an annual account in abstract to be prepared, showing the total receipts and expenditure of all funds levied by virtue of this or the special act for the year ending on the thirty-first day of December, or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the directors, or some of them, and by the auditors, and shall, if required, transmit a copy of the said account, free of charge, to the overseers of the poor of the several parishes through which the railway shall pass, and also to the clerks of the peace of the counties through which the railway shall pass, on or before the thirty-first day of January then next;

Inspection of account.

which last-mentioned account shall be open to the inspection of the public at all seasonable hours, on payment of the sum of one shilling for every such inspection: Provided always, that if the said company shall omit to prepare or transmit such account as aforesaid, if required so to do by any such clerk of the peace or overseers of the poor, they shall forfeit for every such omission the sum of twenty pounds.

*Bye-Laws*

And with respect to the Regulating of the Use of the Railway, be it enacted as follows:—

Regulations for use of railway.

**108.** It shall be lawful for the company, from time to time, subject to the provisions and restrictions in this and the special act contained, to make regulations for the following purposes; (that is to say,)

Speed of trains, &c.

[See vol. I. ch. XII s. 16.]

For regulating the mode by which, and the speed at which, carriages using the railway are to be moved or propelled;

For regulating the times of the arrival and departure of any such carriages;

For regulating the loading or unloading of such carriages, and the weights which they are respectively to carry;

For regulating the receipt and delivery of goods and other things which are to be conveyed upon such carriages;

For preventing the smoking of tobacco, and the commission of any other nuisance in or upon such carriages, or in any of the stations or premises occupied by the company;

Railway not to be closed.

And, generally, for regulating the travelling upon, or using and working of the railway: But no such regulation shall authorize the closing of the railway, or prevent the passage of engines or carriages on the railway at reasonable times, except at any time when, in consequence of any of the works being out of repair, or from any other sufficient cause, it shall be necessary to close the railway, or any part thereof.

Power to make bye-laws.

* Page 12.

**109.** For better enforcing the observance of all or any of such regulations, it shall be lawful for the company, subject to the provrsions of an act passed in the fourth year of the reign of her present Majesty, intituled "An Act for regulating Railways,"* to make bye-laws, and from time to time to repeal or alter such bye-laws, and make others, provided that such bye-laws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect, or to the provisions of this or the special act; and such bye-laws shall be reduced into writing, and shall have affixed thereto the common seal of the company; and any person offending against any such bye-law shall forfeit for every such offence any sum not exceeding five pounds, to be imposed by the company in such bye-laws as a penalty for any such offence; and if the infraction or non-observance of any such bye-law, or other such regulation as aforesaid, be attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, it shall be lawful for the company summarily to interfere to obviate or remove such danger, annoyance or hindrance, and that without prejudice to any penalty incurred by the infraction of any such bye-law (e).

Penalties—Power of summary interference.

Publication of bye-laws.

**110.** The substance of such last-mentioned bye-laws, when confirmed or allowed according to the provisions of any act in force regulating the allowance or confirmation of the same, shall be painted on boards, or printed on paper and pasted on boards, and hung up and affixed and continued on the front or other conspicuous part of every wharf or station belonging to the company, according to the nature or subject-matter of such bye-laws respectively, and so as to give public notice thereof to the parties interested therein

(e) See as to the jurisdiction of the Board of Trade over bye-laws, 3 & 4 Vict., c. 97, p. 12, ante.

or affected thereby; and such boards shall from time to time be renewed, as often as the bye-laws thereon, or any part thereof, shall be obliterated or destroyed; and no penalty imposed by any such bye-law shall be recoverable, unless the same shall have been published and kept published in manner aforesaid.

Bye-laws to be binding when published.

**111.** Such bye-laws, when so confirmed, published and affixed, shall be binding upon, and be observed by, all parties, and shall be sufficient to justify all persons acting under the same; and, for proof of the publication of any such bye-laws, it shall be sufficient to prove that a printed paper or painted board, containing a copy of such bye-laws, was affixed and continued in manner by this act directed; and in case of its being afterwards displaced or damaged, then that such paper or board was replaced as soon as conveniently might be.

*Leasing.*

And with respect to Leasing the Railway, be it enacted as follows:—

Exercise of power to lease railway.

[See vol. I. ch. XIV. sect. 4.]

**112.** Where the company shall be authorized by the special act to lease the railway, or any part thereof, to any company or person, the lease to be executed in pursuance of such authority shall contain all usual and proper covenants on the part of the lessee for maintaining the railway, or the portion thereof comprised in such lease, in good and efficient repair and working condition during the continuance thereof, and for so leaving the same at the expiration of the term thereby granted, and such other provisions, conditions, covenants and agreements as are usually inserted in leases of a like nature.

Powers vested in the company may be exercised by the lessees.

**113.** Such lease shall entitle the company or person to whom the same shall be granted to the free use of the railway or portion of railway comprised therein, and, during the continuance of any such lease, all the powers and privileges granted to, and which might otherwise be exercised and enjoyed by the company, or the directors thereof, or their officers, agents or servants, by virtue of this or the special act, with regard to the possession, enjoyment and management of the railway, or of the part thereof comprised in such lease, and the tolls to be taken thereon, shall be exercised and enjoyed by the lessee, and the officers and servants of such lessee, under the same regulations and restrictions as are by this or the special act imposed on the company, and their directors, officers and servants; and such lessee shall, with respect to the railway comprised in such lease, be subject to all the obligations by this or the special act imposed on the company.

*Engines and Carriages.*

And with respect to the Engines and Carriages to be brought on the railway, be it enacted as follows:—

Engines to consume their smoke.

[See vol. I. ch. XII. sect. 2.]

**114.** Every locomotive steam-engine to be used on the railway shall, if it use coal or other similar fuel emitting smoke, be constructed on the principle of consuming, and so as to consume, its own smoke; and if any engine be not so constructed, the company or party using such engine shall forfeit five pounds for every day during which such engine shall be used on the railway (*f*).

Engines to be approved by the company, and certificate of approval given.

**115.** No locomotive or other engine, or other description of moving power, shall at any time be brought upon or used on the railway, unless the same have first been approved of by the company; and within fourteen days after notice given to the company by any party desirous of bringing any such engine on the railway, the company shall cause their engineer or other agent to examine such engine at any place within three miles' distance

(*f*) By 31 & 32 Vict. c. 119, s. 19, post, if the engine "fail to consume its own smoke, so far as practicable," the company is guilty of an offence.

from the railway, to be appointed by the owner thereof, and to report thereon to the company; and within seven days after such report, if such engine be proper to be used on the railway, the company shall give a certificate to the party requiring the same of their approval of such engine; and if at any time the engineer or other agent of the company report that any engine used upon the railway is out of repair, or unfit to be used upon the railway, the company may require the same to be taken off, or may forbid its use upon the railway until the same shall have been repaired to the satisfaction of the company, and, upon the engine being so repaired, the company shall give a certificate to the party requiring the same of their approval of such engine; and if any difference of opinion arise between the company and the owner of any such engine as to the fitness or unfitness thereof for the purpose of being used on the railway, such difference shall be settled by arbitration.

Removal of unfit engines.

Penalty for using improper engines.

**116.** If any person, whether the owner or other person having the care thereof, bring or use upon the railway any locomotive or other engine, or any moving power, without having first obtained such certificate of approval as aforesaid, or if, after notice given by the company to remove any such engine from the railway, such person do not forthwith remove the same, or if, after notice given by the company not to use any such engine on the railway, such person do so use such engine, without having first repaired the same to the satisfaction of the company, and obtained such certificate of approval, every such person shall, in any of the cases aforesaid, forfeit to the company a sum not exceeding twenty pounds; and in any such case it shall be lawful for the company to remove such engine from the railway.

Carriages to be constructed according to company's regulations.

**117.** No carriage shall pass along, or be upon the railway (except in directly crossing the same, as herein or by the special act authorized), unless such carriage be at all times, so long as it shall be used or shall remain on the railway, of the construction and in the condition which the regulations of the company for the time being shall require; and if any dispute arise between the company and the owner of any such carriage as to the construction or condition thereof, in reference to the then existing regulations of the company, such dispute shall be settled by arbitration.

Regulations to apply also to company's carriages.

**118.** The regulations from time to time to be made by the company respecting the carriages to be used on the railway shall be drawn up in writing, and be authenticated by the common seal of the company, and shall be applicable alike to the carriages of the company and to the carriages of other companies or persons using the railway; and a copy of such regulations shall, on demand, be furnished by the secretary of the company to any person applying for the same.

Penalty for using improper carriages.

**119.** If any carriage, not being of such construction or in such condition as the regulations of the company for the time being require, be made to pass or be upon any part of the railway (except as aforesaid), the owner thereof, or any person having for the time being the charge of such carriage, shall forfeit to the company a sum not exceeding ten pounds for every such offence, and it shall be lawful for the company to remove any such carriage from the railway.

Owner's name, &c., to be registered and exhibited on carriages.

**120.** The respective owners of carriages using the railway shall cause to be entered with the secretary or other officer of the company appointed for that purpose the names and places of abode of the owners of such carriages respectively, and the numbers, weights and gauges of their respective carriages; and such owners shall also, if so required by the company, cause the same particulars to be painted in legible characters on some conspicuous part of the outside of every such carriage, so as to be always open to view; and every such owner shall, whenever required by the company, permit his carriage to be weighed, measured or gauged, at the expense of the company.

**121.** If the owner of any carriage fail to comply with the requisitions contained in the preceding enactment, it shall be lawful for the company to refuse to allow such carriage to be brought upon the railway, or to remove the same therefrom until such compliance.

On non-compliance, carriage may be removed.

**122.** If the loading of any carriage using the railway be such as to be liable to collision with other carriages properly loaded, or to be otherwise dangerous, or if the person having the care of any carriage or goods upon the railway suffer the same or any part thereof to remain on the railway so as to obstruct the passage or working thereof, it shall be lawful for the company to cause such carriage or goods to be unloaded and removed in any manner proper for preventing such collision or obstruction, and to detain such carriage or goods, or any part thereof, until the expenses occasioned by such unloading, removal or detention be paid.

Carriages improperly loaded, obstructing railway, may be unloaded or removed.

**123.** The company shall not be liable for any damage or loss occasioned by any such unloading, removal or detention as aforesaid, except for damage wilfully or negligently done to any carriage or goods so unloaded, removed or detained; nor shall they be liable for the safe custody of any such carriage or goods so detained, unless the same be wrongfully detained by them, and then only for so long a time as the same shall have been so wrongfully detained.

Company not liable for damage by such unloading, &c.

**124.** The respective owners of engines and carriages passing or being upon the railway shall be answerable for any trespass or damage done by their engines or carriages, or by any of the servants or persons employed by them, to or upon the railway, or the machinery or works belonging thereto, or to or upon the property of any other person; and every such servant or other person may lawfully be convicted of such trespass or damage before any two justices of the peace, either by the confession of the party offending, or upon the oath of some credible witness; and upon such conviction every such owner shall pay to the company, or to the person injured, as the case may be, the damage to be ascertained by such justices, so that the same do not exceed fifty pounds.

Owners of engines and carriages liable for damage by their servants.

**125.** It shall be lawful for any owner of an engine or carriage who shall pay the amount of any damage caused by the misfeasance or negligence of any servant or other person employed by him to recover the amount so paid by him from such servant or other person by the same means as the company are enabled to recover the amount of such damage from the owner of any engine or carriage.

Owners may recover from servants.

*Arbitration.*

And with respect to the settlement of disputes by Arbitration, be it enacted as follows:—

**126.** When any dispute authorized or directed by this or the special act, or any act incorporated therewith, to be settled by arbitration shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator to whom such dispute shall be referred; and every appointment of an arbitrator shall be made on the part of the company under the hand of the secretary or any two of the directors of the company, and on the part of any other party under the hand of such party, or if such party be a corporation aggregate, under the common seal of such corporation, and such appointment shall be delivered to the arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matters so required

Arbitrators to be appointed within 14 days after notice.

In case of failure to appoint by one party, the other may appoint.

to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties; and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final.

Vacancy of arbitrator to be supplied.

**127.** If, before the matters so referred shall be determined, any arbitrator appointed by either party die, or become incapable to act, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if, for the space of seven days after notice in writing from the other party for that purpose, he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or incapacity as aforesaid.

Appointment of umpire.

**128.** Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hands, an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under this or the special act; and, if such umpire shall die or become incapable to act, they shall forthwith, after such death or incapacity, appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

Board of Trade may appoint umpire on neglect of arbitrators.

**129.** If, in either of the cases aforesaid, the said arbitrators shall refuse, or shall, for seven days after request of either party to such arbitration, neglect to appoint an umpire, the Board of Trade shall, on the application of either party to such arbitration, appoint an umpire; and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this or the special act, shall be final.

In case of death of single arbitrator, the matter to begin de novo.

**130.** If, where a single arbitrator shall have been appointed, such arbitrator shall die, or become incapable to act, before he shall have made his award, the matters referred to him shall be determined by arbitration, under the provisions of this or the special act, in the same manner as if such arbitrator had not been appointed.

If either arbitrator refuse to act, the other to proceed ex parte.

**131.** If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse or for seven days neglect to act, the other arbitrator may proceed *ex parte*, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

If arbitrators fail to make award within 21 days, matter to go to umpire.

**132.** If, where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as shall have been appointed for that purpose by both such arbitrators, under their hands, the matter referred to them shall be determined by the umpire to be appointed as aforesaid.

Arbitrators may call for books, &c.

**133.** The said arbitrators, or their umpire, may call for the production of any documents in the possession or power of either party, which they or he may think necessary for determining the question in dispute, and may examine the parties, or their witnesses, on oath, and administer the oaths necessary for that purpose.

Declaration by arbitrator and umpire.

**134.** Before any arbitrator or umpire shall enter into the consideration of any matters referred to him, he shall, in the presence of a justice, make and subscribe the following declaration; (that is to say,)

"I, *A. B.*, do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the act" [*naming the special act*]. *A. B.*

"Made and subscribed in the presence of ."

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire, having made such declaration, shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

**135.** Except where, by this or the special act, or any act incorporated therewith, it shall be otherwise provided, the costs of and attending every such arbitration to be determined by the arbitrators, shall be in the discretion of the arbitrators. Costs, in discretion of arbitrators.

**136.** The submission to any such arbitration may be made a rule of any of the superior courts, on the application of either of the parties. Submission may be made rule of court.

**137.** No award made with respect to any question referred to arbitration under the provisions of this or the special act shall be set aside for irregularity or error in matter of form. Error in form

**138.** And be it enacted, That any summons or notice, or any writ or other proceeding at law, or in equity, requiring to be served upon the company, may be served by the same being left at, or transmitted through the post directed to, the principal office of the company, or one of their principal offices where there shall be more than one, or being given personally to the secretary (*g*), or, in case there be no secretary, then by being given to any one director of the company. Service of notices upon company.

**139.** And be it enacted, That if any party shall have committed any irregularity, trespass or other wrongful proceeding in the execution of this or the special act, or any act incorporated therewith, or by virtue of any power or authority thereby given; and if, before action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action; and, if no such tender shall have been made, it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined, to pay into court such sum of money as he shall think fit, and thereupon such proceeding shall be had as in other cases where defendants are allowed to pay money into court (*h*). Tender of amends.

*Recovery of Damages and Penalties*

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, be it enacted as follows:—

**140.** In all cases where any damages, costs or expenses are by this or the special act, or any act incorporated therewith, directed to be paid, and the method of ascertaining the amount, or enforcing the payment thereof, is not provided for, such amount, in case of dispute, shall be ascertained and determined by two justices; and if the amount so ascertained be not paid, by the company or other party liable to pay the same, within seven days after demand, the amount may be recovered by distress of the goods of the company or other party liable as aforesaid; and the justices by whom the same shall have been ordered to be paid, or either of them, or any other justice, on application, shall issue their or his warrant accordingly (*h*). Provision for damages not otherwise provided for.

(*g*) By Rules of the Supreme Court, 1883, Order IX., Rule 7, the mode of service directed by this section is kept up.

(*h*) This and the remaining sections of the act are similar to, and in most cases identical with ss. 145—165 of the Companies Clauses Act, 1845 (8 Vict. c. 16), and with ss. 135—153 of the Lands Clauses Act, 1845 (8 Vict. c. 18), ante. As to the partial repeal of these sections for England by the Summary Jurisdiction Act, 1884, see note to s. 157, post.

Distress against the treasurer.

**141.** If sufficient goods of the company cannot be found whereon to levy any such damages, costs and expenses payable by the company, the same may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the company; and the justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such treasurer unless seven days' previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid, he may retain the amount so paid by him, and all costs and expenses occasioned thereby out of any money belonging to the company coming into his custody or control, or he may sue the company for the same.

Method of proceeding before justices in questions of damages, &c.

**142.** Where, in this or the special act, any question of compensation, expenses, charges or damages, or other matter, is referred to the determination of any one justice or more, it shall be lawful for any justice, upon the application of either party, to summon the other party to appear before one justice, or before two justices, as the case may require, at a time and place to be named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one justice, or such two justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties, or any of them, and their witnesses, on oath; and the cost of every such inquiry shall be in the discretion of such justices, and they shall determine the amount thereof.

Publication of penalties.

**143.** The company shall publish the short particulars of the several offences for which any penalty is imposed by this or the special act, or by any bye-law of the company affecting other persons than the shareholders, officers or servants of the company and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed upon paper, and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the company, and, where any such penalties are of local application, shall cause such boards to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same, or any part thereof, is obliterated or destroyed; and no such penalty shall be recoverable unless it shall have been published and kept published in the manner hereinbefore required.

Penalties not recoverable unless published.

Penalty for defacing boards used for such publication.

**144.** If any person pull down or injure any board put up or affixed as required by this or the special act for the purpose of publishing any bye-law or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Penalties to be summarily recovered before two justices.

**145.** Every penalty or forfeiture imposed by this or the special act, or by any bye-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices; *and, on complaint being made to any justice, he shall issue a summons requiring the party complained against to appear before two justices at a time and place to be named in such summons, and every such summons shall be served on the party offending, either in person or by leaving the same with some inmate at his usual place of abode; and upon the appearance of the party complained against, or, in his absence, after proof of the due service of such summons, it shall be lawful for any two justices to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before them; and, upon proof of the offence,*

*either by the confession of the party complained against, or upon the oath of one credible witness or more, it shall be lawful for such justices to convict the offender, and, upon such conviction, to adjudge the offender to pay the penalty or forfeiture incurred, as well as such cost attending the conviction as such justices shall think fit* (*i*).

**146.** *If forthwith, upon any such adjudication as aforesaid, the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress, and such justices, or either of them, shall issue their or his warrant of distress accordingly* (*i*).

Penalties to be levied by distress.

**147.** *It shall be lawful for any such justice to order any offender so convicted as aforesaid to be detained and kept in safe custody until return can be conveniently made to the warrant of distress to be issued for levying such penalty or forfeiture and costs, unless the offender give sufficient security, by way of recognizance or otherwise, to the satisfaction of the justice, for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such security; but if, before issuing such warrant of distress, it shall appear to the justice, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such justice whereon to levy such penalty or forfeiture and costs, he may, if he thinks fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the justice, then such justice shall, by warrant, cause such offender to be committed to gaol, there to remain without bail for any term not exceeding three months, unless such penalty or forfeiture and costs be sooner paid and satisfied* (*i*).

Imprisonment in default of distress.

**148.** Where, in this or the special act, or any act incorporated therewith, any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress, how to be levied.

**149.** No distress levied by virtue of this or the special act, or any act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Distress not unlawful for want of form.

**150.** The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed, to be applied in aid of the poor's rate of such parish; *or, if the place wherein the offence shall have been committed shall be extra-parochial, then such justices shall direct such remainder to be applied in aid of the poor's rate of such extra-parochial place, or, if there shall not be any poor's rate therein, in aid of the poor's rate of any adjoining parish or district* (*k*).

Application of penalties.

(*i*) Repealed as to England by Summary Jurisdiction Act, 1884, 47 & 48 Vict. c. 43, as having been superseded by the Summary Jurisdiction Act, 1848, 11 & 12 Vict. c. 43. See note (*n*) post.

(*k*) Portion italicised repealed by Stat. Law Rev. Act, 1875, 38 & 39 Vict. c. 66.

Penalties to be sued for within six months.

**151.** *No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this or the special act, or any act incorporated therewith, for any offence made cognizable before a justice, unless the complaint respecting such offence shall have been made before such justice within six months next after the commission of such offence* (*l*).

Damage to be made good in addition to penalty.

**152.** If, through any act, neglect or default on account whereof any person shall have incurred any penalty imposed by this or the special act, any damage to the property of the company shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the justices by whom the party incurring such penalty shall have been convicted; and on non-payment of such damages, on demand, the same shall be levied by distress, and such justices, or one of them, shall issue their or his warrant accordingly.

Penalty on witnesses making default.

**153.** *It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction under the provisions of this or the special act, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence* (*m*).

Transient offenders.

**154.** It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this or the special act, and whose name and residence shall be unknown to such officer or agent, and convey him, with all convenient despatch, before some justice, without any warrant or other authority than this or the special act; and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Form of conviction.

**155.** The justices before whom any person shall be convicted of any offence against this or the special act, or any act incorporated therewith, may cause the conviction to be drawn up according to the form in the Schedule to this act annexed.

Certiorari excluded.

**156.** No proceeding in pursuance of this or the special act, or any act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

Appeal to quarter sessions.

**157.** If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the special act, or any act incorporated therewith, such party may appeal to the general quarter sessions *for the county or place in which the cause of appeal shall have arisen; but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith, after such notice, enter into recognizances, with two sufficient sureties, before a justice, conditioned duly to prosecute such appeal, and to abide the order of the court thereon* (*n*).

(*l*) Repealed, as to England, by Summary Jurisdiction Act, 1884, the same six months' limitation having been provided by s. 11 of the Summary Jurisdiction Act, 1848, 11 & 12 Vict. c. 43.

(*m*) Repealed by Summary Jurisdiction Act, 1884, "so far as relates to any matter to which the Summary Jurisdiction Acts apply."

(*n*) Portion italicised repealed, as to England, by Summary Jurisdiction Act, 1884, 47 & 48 Vict. c. 43, which Act is of

**158.** At the quarter sessions for which such notice shall be given, the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable. Hearing of appeal

**159.** Provided always, and be it enacted, That, notwithstanding anything herein or in the special act, or any act incorporated therewith, contained, every penalty or forfeiture imposed by this or the special act, or any act incorporated therewith, or by any bye-law in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the Metropolitan Police District, and shall be applied in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constabels for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid and applied by an act passed in the third year of the reign of her present Majesty, intituled "An Act for regulating the Police Courts in the Metropolis;" and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal, and upon the same terms, as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expenses as he or they would have had or been entitled to in case the order, conviction and appeal had been made in pursuance of the provisions of the said last-mentioned act. Receiver of metropolitan police district to receive penalties incurred within his district. 2 & 3 Vict. c. 71.

**160.** And be it enacted, That every person who, upon any examination upon oath, under the provisions of this or the special act, or any act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury. False witnesses liable to penalties of perjury.

**161.** [*Sums of money which have been or shall be paid into the Bank of Ireland in the name and with the privity of the Accountant-General of the Court of Chancery of Ireland, under 1 & 2 Vict. c.* 117, "*An Act to provide for the Custody of certain Monies paid in pursuance of the Standing Orders of either House of Parliament,*" *&c., to be paid out and applied under any order of the said Court of Chancery exempt from ushers' poundage:* Repealed by Stat. Law Rev. Act, 1875, 38 & 39 Vict. c. 66, as having been replaced by 9 Vict. c. 20, p. 138, post.]

And with respect to the provisions to be made for affording access to the special act by all parties interested, be it enacted as follows:— *Access to Special Act.*

the nature of a Statute Law Revision Act, and repeals as to England many sections of this Act, of the Lands Clauses Act, and of the Companies Clauses Act (see note (*h*), ante), rendered unnecessary by the Summary Jurisdiction Acts of 1848, 11 & 12 Vict. c. 43, and of 1879, 42 & 43 Vict. c. 43 (which see Chitty's Statutes, vol. III., tit. "Justices"), in order to provide for uniformity of procedure. The conditions of appeal must now, by virtue of s. 6 of the Summary Jurisdiction Act, 1884, be sought for in s. 31 of the Summary Jurisdiction Act, 1879. As to appeal to High Court by case on point of Law, see 20 & 21 Vict. c. 43, s. 33, of the Summary Jurisdiction Act, 1879, and rule 18 of the Summary Jurisdiction Rules, 1886.

Copies of special act to be kept and deposited with clerks of the peace, &c.

[See p. 59.]

**162.** The company shall, at all times after the expiration of six months after the passing of the special act, keep in their principal office of business a copy of the special act printed by the printers to her Majesty, or some of them; and shall also, within the space of such six months, deposit in the office of each of the clerks of the peace of the several counties into which the works shall extend a copy of such special act so printed as aforesaid; and the said clerks of the peace shall receive, and they and the company respectively shall retain, the said copies of the special act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an act passed in the first year of the reign of her present Majesty, intituled "An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."*

Inspection of special act.

* Ante, p. 1.

Penalty for not keeping special act.

**163.** If the company shall fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the special act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

Scotland.

**164.** This act shall not extend to Scotland (*o*).

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## 8 & 9 VICT. CAP. 28.

*An Act to empower Canal Companies and the Commissioners of Navigable Rivers to vary their Tolls, Rates and Charges on different Parts of their Navigations.* [30th June, 1845.

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## 8 & 9 VICT. CAP. 42.

*An Act to enable Canal Companies to become Carriers of Goods upon their Canals (p).* [21st July, 1845.

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## 8 & 9 VICT. CAP. 46.

*An Act for the Appointment of additional Constables for keeping the Peace near Public Works in Ireland (q).* [21st July, 1845.

Whereas it is expedient to provide for the appointment and payment of additional head and other constables for keeping the peace, and for the

(*o*) The Scotch Act is 8 & 9 Vict. c. 33. It contains 154 sections, the greater number and the material portion of which are identical verbatim with the English and Irish Act. It is therefore excluded from the present, as from all previous editions of this work.

(*p*) This statute and 8 & 9 Vict. c. 29, were passed (see their preamble) to enable canal companies to compete with railways. They were included in the first, but excluded from subsequent editions of this work. See the statutes at length, Lely's Railway and Canal Traffic, pp. 136—149; Chitty's Statutes, tit. "Canals."

(*q*) And see 11 & 12 Vict. c. 72, post, p. 147.

protection of the inhabitants and the security of property, in the neighbourhood of railway works and other public works in Ireland: be it therefore enacted by (&c., &c.), That from and after the passing of this act, in any case in which the works of any railway, canal or other public work of a similar nature shall be in progress of construction in Ireland, upon the application of the company or other parties carrying on any such public work, or upon the application of two or more justices of the peace of the county acting in the petty sessions of the district in or through which any such public work may be in the course of construction, to whom it shall be made appear, on the oath of two or more credible witnesses, that the appointment of additional constables for the keeping of the peace, and for the protection of the inhabitants, and the security of property, in the neighbourhood of such works, is necessary in consequence of the behaviour or reasonable apprehension of the behaviour of the persons employed in the said works, it shall be lawful for the lord lieutenant or other chief governor or governors of Ireland, if he or they shall so think fit, from time to time to order and direct that, in addition to the number of head and other constables whom the said lord lieutenant or other chief governor or governors of Ireland, is or are authorized to appoint by virtue of an act passed in the sixth year of the reign of his late Majesty, intituled "An Act to consolidate the Laws relating to the Constabulary Force in Ireland," and the other acts amending the same, such number of head and other constables as he or they shall think fit, not exceeding in any case the number specified in any such application as aforesaid, shall be appointed and employed during the construction of such public works, in aid of and in conjunction with the said constabulary force in such county, county of a city, county of a town, or place near to the said public works so in progress of construction, as shall be mentioned in the said order, and shall remain there for such length of time, or remove to or remain at such other place or places near to such public works for such time or times, as shall be mentioned or directed by such order, or any other order or orders which may from time to time be made by such lord lieutenant or other chief governor or governors or by the inspector general of the said constabulary force, under the control and directions of the said lord lieutenant or other chief governor or governors; and such constables may in like manner, by any such order, be reduced in number, or wholly removed from the neighbourhood of such works: and the head and other constables so appointed shall, during the period of such employment, have the same amount of pay and allowances, and the same rights, powers and authorities, privileges and advantages, and be subject to the same provisions and enactments, rules, regulations and orders, and be in all respects in the same situation in the county, county of a city, or county of a town in which they shall be stationed, as far as the circumstances of the case will admit, as if they had been appointed to and formed part of the constabulary force established in and for such county, county of a city, or county of a town.

Additional head and other constables may be appointed by the lord lieutenant to keep the peace near the works of railways, &c., in Ireland

6 & 7 Will. IV. c. 13.

**2.** And be it enacted, That the inspector general of the said constabulary force, with the assistance of the receiver of the said force, shall from time to time, or as often as he shall think convenient, prepare and certify under his hand a detailed account of the expense incurred for the pay, salary, clothing and equipment, lodging and other allowances of such men so appointed and employed as aforesaid, which expense, when approved and certified by the chief or under secretary of such lord lieutenant, or other chief governor or governors, the said company or parties, or their agent, shall upon demand, pay to the said receiver, to be placed to the credit of the county, county of a city, or county of a town in which such constables as aforesaid shall have been so employed.

**Expense of additional head and other constables to be paid by the company or parties carrying on such works.**

If the company or parties neglect to pay the expense, it may be recovered at the suit of her Majesty's Attorney-General for Ireland, or by distress and sale of the goods of the company.

3. And be it enacted, That in all cases where the company or other parties carrying on such public work shall refuse or neglect, during fourteen days next after demand thereof, to pay any such expense, or any part thereof, as shall have been so certified and approved as aforesaid, the same shall and may be sued for in any of the superior courts, at the suit of her Majesty's attorney-general for Ireland, as a debt due to her Majesty, or, upon production of such account, so certified and approved, before any two justices of the county, county of a city, or county of a town in which such constables shall have been so employed as aforesaid; and upon proof on oath of such demand made as aforesaid of such company or parties, or any officer superintending such public works, and upon the application of the said receiver of the constabulary force, or any person by him authorised in writing, it shall be lawful for such justices, by their warrant under their hands and seals (which they are hereby authorised and required to grant), to cause the amount of such account to be levied, together with the expenses of levying the same, by distress and sale of the goods and chattels of the company or other parties carrying on such public works as aforesaid; and the surplus, if any, arising from such distress and sale, after deducting the amount of such account, together with the reasonable expenses attendant on such distress and sale, shall be rendered to the said company or parties.

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## 8 & 9 VICT. CAP. 96.

*An Act to restrict the Powers of selling or leasing Railways contained in certain Acts of Parliament relating to such Railways.* [4th August, 1845.

Whereas provisions have been introduced in various acts of Parliament, during the present session of Parliament, relating to railways, giving to railway companies general powers of granting or accepting a lease, sale, or transfer of their own or other lines of railway; and it is expedient that such powers should be restrained; be it therefore enacted, That it shall not be lawful for the company of proprietors of any railway, by virtue of any powers contained in any act passed in the present session, to make or grant, or for any other railway company or party, by virtue of any such powers, to accept a sale, lease, or other transfer of any railway, unless under the authority of a distinct provision in some act of Parliament to that effect, specifying by name the railway to be so leased, sold, or transferred, and the company or party by whom such lease, sale, or transfer may be respectively made, granted, or accepted.

No railway company to grant or accept a lease or transfer of any railway, unless under a distinct provision of an act specifying the parties.

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## 8 & 9 VICT. CAP. 113.

*An Act to facilitate the Admission in Evidence of certain Official and other Documents.* [8th August, 1845.

Whereas it is provided by many statutes, that various certificates, official and public documents, documents and proceedings of corporations and of joint-stock and other companies, and certified copies of documents, bye-

laws, entries in registries and other books, shall be receivable in evidence of certain particulars in courts of justice, provided they be respectively authenticated in the manner prescribed by such statutes ; And whereas the beneficial effect of these provisions has been found by experience to be greatly diminished by the difficulty of proving that the said documents are genuine ; and it is expedient to facilitate the admission in evidence of such and the like documents ; be it therefore enacted, That whenever, by any act now in force, or hereafter to be in force, any certificate, official or public document, or document or proceeding of any corporation, or joint-stock or other company, or any certified copy of any document, bye-law, entry in any register or other book, or of any other proceeding, shall be receivable in evidence of any particular in any court of justice, or before any legal tribunal, or either House of Parliament, or any committee of either House, or in any judicial proceeding, the same shall respectively be admitted in evidence, provided they respectively purport to be sealed or impressed with a stamp, or sealed and signed, or signed alone, as required, or impressed with a stamp and signed, as directed by the respective acts made or to be hereafter made, without any proof of the seal or stamp, where a seal or stamp is necessary, or of the signature or of the official character of the person appearing to have signed the same, and without any further proof thereof, in every case in which the original record could have been received in evidence.

Certain documents to be received in evidence without proof of seal or signature, &c., of person signing the same.

**2.** [Signature of judges.]

**3.** All copies of private and local and personal acts of Parliament not public acts, if purporting to be printed by the Queen's printers, and all copies of the journals of either House of Parliament, and of royal proclamations, purporting to be printed by the printers to the Crown, or by the printers to either House of Parliament, or by any or either of them, shall be admitted as evidence thereof by all courts, judges, justices and others, without any proof being given that such copies were so printed.

Copies of private acts printed by Queen's printer, journals of Parliament, and proclamations, admissible as evidence.

**4.** If any person shall forge the seal, stamp or signature of any such certificate, official or public document, or document or proceeding of any corporation or joint-stock or other company, or of any certified copy of any document, bye-law, entry in any register or other book, or other proceeding as aforesaid (*r*), or shall tender in evidence any such certificate, official or public document, or document or proceeding of any corporation or joint-stock or other company, or any certified copy of any document, bye-law, entry in any register or other book, or of any other proceeding, with a false or counterfeit seal, stamp or signature thereto, knowing the same to be false or counterfeit, whether such seal, stamp or signature be those of or relating to any corporation or company already established, or to any corporation or company to be hereafter established, or if any person shall forge the signature of any such judge as aforesaid to any order, decree, certificate or other judicial or official document, or shall tender in evidence any order, decree, certificate or other judicial or official document with a false or counterfeit signature of any such judge as aforesaid thereto, knowing the same to be false or counterfeit, or if any person shall print any copy of any private act or of the journals of either House of Parliament, which copy shall falsely purport to have been printed by the printers to the Crown, or by the printers to either House of Parliament, or by any or either of them, or if any person shall tender in evidence any such copy, knowing that the same was not printed by the person or persons by whom it so purports to have been printed, every such person shall be guilty of felony, and shall upon conviction be liable to transportation for seven years, or to imprison-

Persons forging seal, stamp or signature of certain documents, or printing any private act with false purport, guilty of felony.

(*r*) See also 24 & 25 Vict. c. 98, s. 29.

ment for any term not more than three nor less than one year, with hard labour: Provided also, that whenever any such document as before mentioned shall have been received in evidence by virtue of this act, the court, judge, commissioner or other person officiating judicially who shall have admitted the same, shall, on the request of any party against whom the same is so received, be authorized, at its or at his own discretion, to direct that the same shall be impounded, and be kept in the custody of some officer of the court or other proper person, until further order touching the same shall be given, either by such court or the court to which such master or other officer belonged, or by the persons or person who constituted such court, or by some one of the equity or common law judges of the superior courts at Westminster, on application being made for that purpose.

Not to extend to Scotland.

5. That this act shall not extend to Scotland.

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## 9 VICT. CAP. 20.

*An Act to amend an Act of the second Year of her present Majesty, for providing for the custody of certain Monies paid in pursuance of the Standing Orders of either House of Parliament, by Subscribers to Works or Undertakings to be effected under the authority of Parliament.* [18th June, 1846.

Repeal of 1 & 2 Vict. c. 117.

Whereas an act was passed in the second year of the reign of her present Majesty Queen Victoria, intituled "An Act to provide for the Custody of certain Monies paid in pursuance of the Standing Orders of either House of Parliament, by Subscribers to Works or Undertakings to be effected under the authority of Parliament:" And whereas it is expedient that the said act should be repealed, and should be re-enacted with such modifications, extensions and alterations as after mentioned; be it therefore enacted, That the said act shall be and is hereby repealed: Provided always, that all acts done under the provisions of the said act shall be good, valid and effectual to all intents and purposes, and that all sums of money paid under the provisions of the said act shall be dealt with in all respects as if this act had not been passed.

Authority to deposit.

[See vol. I. ch. I. sect. 2.]

2. That in all cases in which any sum of money is required by any standing order of either House of Parliament, either now in force or hereafter to be in force, to be deposited by the subscribers to any work or undertaking which is to be executed under the authority of an act of Parliament, if the director or person or directors or persons having the management of the affairs of such work or undertaking, not exceeding five in number, shall apply to one of the clerks in the office of the clerk of the Parliaments with respect to any such money required by any standing order of the lords spiritual and temporal in Parliament assembled, or to one of the clerks of the private bill office of the House of Commons with respect to any such money required by any standing order of the Commons in Parliament assembled to be deposited, it shall be lawful for the clerk so applied to, by warrant or order under his hand, to direct that such sum of money shall be paid in manner hereinafter mentioned; (that is to say), into the Bank of England, in the name and with the privity of *the Accountant-General of the Court of Chancery in England* (s), if the work or under-

(s) Now Paymaster-General, Chancery Funds Act, 1872.

taking in respect of which the sum of money is required to be deposited is intended to be executed in that part of the United Kingdom called England, or into any of the banks in Scotland established by Act of Parliament or royal charter, in the name and with the privity of the Queen's Remembrancer of the Court of Exchequer in Scotland, at the option of the person or persons making such application as aforesaid, in case such work or undertaking is intended to be executed in that part of the United Kingdom called Scotland, or into the Bank of Ireland, in the name and with the privity of the Accountant-General of the Court of Chancery in Ireland, in case such work or undertaking is intended to be made or executed in that part of the United Kingdom called Ireland; and such warrant or order shall be a sufficient authority for *the Accountant-General of the Court of Chancery in England* (*t*), the Queen's Remembrancer of the Court of Exchequer in Scotland, and the Accountant-General of the Court of Chancery in Ireland respectively, to permit the sum of money directed to be paid by such warrant or order to be placed to an account opened or to be opened in his name in the bank mentioned in such warrant or order.

Payment of deposit in cash.

3. That it shall be lawful for the person or persons named in such warrant or order, or the survivors or survivor of them, to pay the sum mentioned in such warrant or order into the bank mentioned in such warrant or order in the name and with the privity of the officer or person in whose name such sum shall be directed to be paid by such warrant or order, to be placed to his account there *ex parte* the work or undertaking mentioned in such warrant or order, pursuant to the method prescribed by any act or acts for the time being in force for regulating monies paid into the said courts, and pursuant to the general orders of the said courts respectively, and without fee or reward; and every such sum so paid in, or the securities in or upon which the same may be invested as hereinafter mentioned, or the stocks, funds, or securities authorized to be transferred or deposited, in lieu thereof as hereinafter mentioned, shall there remain until the same, with all interest and dividends, if any, accrued thereon, shall be paid out of such bank, in pursuance of the provisions of this act: Provided always, that in case any such director or person, directors or persons, having the management of any such proposed work or undertaking as aforesaid, shall have previously invested in the Three per Centum Consolidated or the Three per Centum Reduced Bank Annuities, Exchequer Bills or other Government securities, the sum or sums of money required by any such standing order of either House of Parliament as aforesaid to be deposited by the subscribers to any work or undertaking which is to be executed under the authority of an act of Parliament, it shall be lawful for the person or persons named in such warrant or order, or the survivors or survivor of them, to deposit such Exchequer Bills or other Government securities in the bank mentioned in such warrant or order in the name and with the privity of the officer or person in whose name such sum shall by such warrant or order be directed to be paid, or to transfer such Government stocks or funds into the name of the officer or person; and such transfer or deposit shall be directed by such clerk of the office of the clerk of the Parliaments, or such clerk of the private bill office of the House of Commons, as the case may be, in lieu of payment of so much of the sum of money required to be deposited as aforesaid as the same Exchequer bills or other the Government stocks or funds will extend to satisfy at the price at which the same were originally purchased by the said person or persons, director or directors as aforesaid, such price to be proved by production of the broker's certificate of such original purchase.

Transfer, in case of investment.

(*t*) Now Paymaster-General; see p. 138, ante, note (*s*).

Investment of deposit.

**4.** That if the person or persons named in such warrant or order, or the survivors or survivor of them, desire to have invested any sum so paid into the Bank of England or the Bank of Ireland, or any interest or dividend which may have accrued on any stocks or securities so transferred or deposited as aforesaid, the court in the name of whose Accountant-General the same may have been paid may, on a petition presented to such court in a summary way by him or them, order that such sum or such interest or dividends shall, until the same be paid out to the parties entitled to the same in pursuance of this act be laid out in the Three per Centum Consolidated or Three per Centum Reduced Bank Annuities, or any Government security or securities, at the option of the aforesaid person or persons, or the survivor or survivors of them (*u*).

Repayment of deposit.

**5.** That on the termination of the session of Parliament in which the petition or bill for the purpose of making or sanctioning any such work or undertaking shall have been introduced into Parliament, or if such petition or bill shall be rejected or finally withdrawn by some proceeding in either House of Parliament, or shall not be allowed to proceed, or if the person or persons by whom the said money was paid or security deposited shall have failed to present a petition, or if an act be passed authorizing the making of such work or undertaking, and if in any of the foregoing cases the person or persons named in such warrant or order, or the survivors or survivor of them, or the majority of such persons, apply by petition to the court in the name of whose Accountant-General the sum of money mentioned in such warrant or order shall have been paid, or such Exchequer bills, stocks or fund shall have been deposited or transferred as aforesaid, or to the Court of Exchequer in Scotland, in case such sum of money shall have been paid, in the name of the said Queen's Remembrancer, the court in the name of whose Accountant-General or Queen's Remembrancer such sum of money shall have been paid, or such Exchequer bills, stocks or funds shall have been deposited or transferred, shall by order direct the sum of money paid in pursuance of such warrant or order, or the stocks, funds or securities in or upon which the same may have been invested, and the interest or dividends thereof, or the Exchequer bills, stocks or funds so deposited or transferred as aforesaid, and the interest and dividends thereof to be paid or transferred to the party or parties so applying, or to any other person or persons whom they may appoint in that behalf; but no such order shall be made in the case of any such petition or bill being rejected or not being allowed to proceed, or being withdrawn, or not being presented, or of an act being passed authorizing the making of such work or undertaking, unless upon the production of the certificate of the chairman of committees of the House of Lords with reference to any proceeding in the House of Lords, or of the speaker of the House of Commons with reference to any proceeding in the House of Commons, that the said petition or bill was rejected or not allowed to proceed, or was withdrawn during its passage through one of the Houses of Parliament, or was not presented, or that such act was passed, which certificate the said chairman or speaker shall grant on the application in writing of the person or persons or the majority of the persons named in such warrant, or the survivor or survivors of them: Provided always, that the granting of any such certificate, or any mistake or error therein or in relation thereto, shall not make the chairman or speaker signing the same liable in respect of any monies, stocks, funds and securities which may be paid, deposited, invested, or transferred in pursuance of the provisions of this act, or the interest or dividends thereof.

Certificate of chairman of committees, or speaker.

Proviso.

(*u*) See *Re Manchester R. Co.*, 4 Railw. Cas. 204.

# 9 & 10 VICT. CAP. 57.

*An Act for regulating the Gauge of Railways* (*x*).
[18th August, 1846.

Whereas it is expedient to define the gauge on which railways shall be constructed: Be it enacted, That, after the passing of this act, it shall not be lawful (except as hereinafter excepted) to construct any railway for the conveyance of passengers on any gauge other than four feet eight inches and half an inch in Great Britain, and five feet three inches in Ireland: Provided always, that nothing hereinbefore contained shall be deemed to forbid the maintenance and repair of any railway constructed before the passing of this act on any gauge other than those hereinbefore specified, or to forbid the laying of new rails on the same gauge on which such railway is constructed within the limits of deviation authorized by the several acts under the authority of which such railways are severally constructed. On what gauge railways shall be made.

**2.** That nothing hereinbefore contained shall apply to any railway constructed or to be constructed under the provisions of any present or future act containing any special enactment defining the gauge or gauges of such railway, or any part thereof or to any railway which is in its whole length southward of the Great Western Railway, or to any railway in any of the counties of Cornwall, Devon, Dorset or Somerset, for which any act has been or shall be passed in this session of Parliament, or to any railway in any of the last-mentioned counties now in course of construction, or to the two railways severally to be constructed under the authority of two acts passed in this session of Parliament, severally intituled "An Act for making a Railway from the Great Western Railway at West Drayton to Uxbridge in Middlesex," and "An Act for making a Railway from the Great Western Railway at Maidenhead in Berkshire to the Town of High Wycombe in the County of Buckingham;" or to so much of an act passed in this session, intituled "An Act to authorize certain Extensions of the Line of the Oxford, Worcester, and Wolverhampton Railway, and to amend the Act relating thereto," as authorizes the construction of a branch railway from the Oxford, Worcester and Wolverhampton Railway to the town of Witney in the county of Oxford; or to an act passed or which may be passed in this session of Parliament "to authorize the Construction of a Railway from Melin-y-Manach to Rhydydefydd in the County of Glamorgan." Exception of certain railways. 9 & 10 Vict. c. 66. 9 & 10 Vict. c. 236. 9 & 10 Vict. c 278.

**3.** That the several railways authorized to be constructed by an act passed in the last session of Parliament, intituled "An Act for making a Railway to be called The South Wales Railway," and by an act also passed in the last session of Parliament, intituled "An Act for making a Railway from Monmouth to Hereford, with Branches therefrom to Westbury, and to join the Forest of Dean Railway," and by two acts passed in this session of Parliament, severally intituled "An Act for completing the Line of the South Wales Railway, and to authorize the Construction of an Extension and certain Alterations of the said Railway, and certain Branch Railways in connexion therewith," and "An Act for making a Railway Communication between the City of Bristol and the proposed South Wales Railway in the County of Monmouth, with a Branch Railway therefrom," shall be constructed on the gauge of seven feet. Certain railways to be on the broad gauge. 8 & 9 Vict. c. 190. 8 & 9 Vict. c. 191. 9 & 10 Vict. 9 & 10 Vict. c. 105.

(*x*) Sections 4, 6, 7, 8 of this act were made applicable to railway companies incorporated by certificate of the Board of Trade under the Railways Construction Facilities Act, 1864, by that act, 27 & 28 Vict. c. 121, post.

Gauge not to be altered

4. That it shall not be lawful, after the passing of this act, to alter the gauge of any railway used for the conveyance of passengers (y).

Saving for Oxford, &c., Railway.

8 & 9 Vict. c. 188.

8 & 9 Vict. c. 184.

5. That nothing hereinbefore contained shall be deemed to affect the provisions of two acts passed in the last session of Parliament, respectively intituled "An Act for making a Railway from the City of Oxford to the Town of Rugby," and "An Act for making a Railway from Oxford to Worcester and Wolverhampton," with respect to the gauge on which they are to be formed, or the additional rails which, according to the several provisions of the last two recited acts, are to be or may be laid down and maintained on the railways thereby authorized, or with respect to the powers thereby conferred on the Commissioners of her Majesty's Privy Council for Trade and Foreign Plantations concerning the construction and use of the railways thereby authorized.

Penalty for constructing railways contrary to this act.

6. That if any railway used for the conveyance of passengers shall be constructed or altered contrary to the provisions of this act, the company authorized to construct the railway, or, in the case of any demise or lease of such railway, the company for the time being having the control of the works of such railway, shall forfeit ten pounds for every mile of such railway which shall be so unlawfully constructed or altered during every day that the same shall continue so unlawfully constructed or altered; and in estimating the amount of any such penalty any distance less than one mile shall be estimated as a mile (y).

Railways constructed contrary to this act may be abated.

7. That over and above the penalty hereinbefore provided, if any railway used for the conveyance of passengers shall be constructed or altered contrary to the provisions of this act, it shall be lawful for the Commissioners of her Majesty's Woods, Forests, Land Revenues, Works and Buildings, or for the Lords of the Committee of her Majesty's Privy Council for Trade and Foreign Plantations, to abate and remove the same or any part thereof so constructed or altered contrary to the provisions of this act, and to restore the site thereof to its former condition (y).

Recovery of penalties.

8. That all penalties under this act may be recovered from the company liable to pay and make good the same, as, under the provisions of an act passed in the last session of Parliament, intituled "An Act for consolidating in one Act certain Provisions usually inserted in Acts authorizing the making of Railways," a penalty for any infringement of the last-recited act is recoverable against a company authorized to construct a railway (y).

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## 9 & 10 VICT. CAP. 93.

[See vol. I. ch. XVI. s. 9.]

*An Act for compensating the Families of Persons killed by Accidents* (z). [26th August, 1846.

Action maintainable against person causing death through neglect, notwithstanding death of person injured.

Whereas no action at law is now maintainable against a person who by his wrongful act, neglect or default may have caused the death of another person, and it is oftentimes right and expedient that the wrongdoer in such case should be answerable in damages for the injury so caused by him: Be it therefore enacted, That whensoever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to

(y) See 33 & 34 Vict. c. 19, s. 5, post.

(z) Commonly called "Lord Campbell's Act;" see also 27 & 28 Vict. c. 95; 31 & 32 Vict. c. 119, ss. 25, 26, post.

maintain an action and recover damages in respect thereof, then and in every such case the person who would have been liable if death had not ensued shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony.

**2.** That every such action shall be for the benefit of the wife, husband, parent and child of the person whose death shall have been so caused, and shall be brought by and in the name of the executor or administrator of the person deceased; and in every such action the jury may give such damages as they may think proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit such action shall be brought; and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties in such shares as the jury by their verdict shall find and direct.

Action to be brought by executor.

**3.** That not more than one action shall lie for and in respect of the same subject-matter of complaint; and that every such action shall be commenced within twelve calendar months after the death of such deceased person.

Only one action. To be commenced in 12 months.

**4.** That in every such action the plaintiff on the record shall be required, together with the declaration, to deliver to the defendant or his attorney, a full particular of the person or persons for whom and on whose behalf such action shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

Plaintiff to deliver particular of cestui que trust.

**5.** That the following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject-matter; that is to say, words denoting the singular number are to be understood to apply also to plurality of persons or things; and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother, and grandfather and grandmother, and stepfather and stepmother; and the word "child" shall include son and daughter, and grandson and granddaughter, and stepson and stepdaughter.

Construction of act.

"Parent."

**6.** Nothing herein contained shall apply to that part of the United Kingdom called Scotland.

Scotland.

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## 10 & 11 VICT. CAP. 42.

*An Act to transfer the Collection and Management of the Duties in respect of Stage Carriages, Hackney Carriages, and Railway Passengers, from the Commissioners of Stamps and Taxes to the Commissioners of Excise* (a). [25th June, 1847.

(*a*) The title of this act, which was given at length in prior editions, is now considered sufficient to explain its effect. By 12 & 13 Vict. c. 1, the Boards of Excise, and Stamps and Taxes were consolidated into one Board of "Commissioners of Inland Revenue."

## 10 & 11 VICT. CAP. 69.

*An Act for the more effectual Taxation of Costs of Private Bills in the House of Commons* (b). [22nd July, 1847.

Whereas it is expedient to make more effectual provision for taxing the costs and expenses to be charged by parliamentary agents, attornies, solicitors and others in future sessions of Parliament in respect of bills subject to the payment of fees in Parliament, commonly called private bills, and to be incurred in complying with the standing orders of the House of Commons relative to such bills, and in preparing, bringing in and carrying the same through, or in opposing the same in, the House of Commons: Be it enacted [Repeal of 6 Geo. 4, c. 123, in *pari materiâ*].

Parliamentary agent not to sue for costs until one month after delivery of his bill.

**2.** That no parliamentary agent, attorney or solicitor, nor any executor, administrator or assignee of any parliamentary agent, attorney or solicitor, shall commence or maintain any action or suit for the recovery of any costs, charges or expenses in respect of any proceedings in the House of Commons in any future session of Parliament relating to any petition for a private bill, or private bill, or in respect of complying with the standing orders of the said house relative thereto, or in preparing, bringing in and carrying the same through, or opposing the same in, the House of Commons until the expiration of one month after such parliamentary agent, attorney or solicitor, or executor, administrator or assignee of such parliamentary agent, attorney or solicitor, has delivered unto the party to be charged therewith, or sent by post to or left for him at his counting-house, office of business, dwelling-house, or last known place of abode, a bill of such costs, charges and expenses, and which bill shall either be subscribed with the proper hand of such parliamentary agent, attorney or solicitor, or, in the case of a partnership, by any of the partners, either with his own name or with the name of such partnership, or of the executor, administrator or assignee of such parliamentary agent, attorney or solicitor, or be enclosed in or accompanied by a letter subscribed in like manner referring to such bill: Provided always, that it shall not in any case be necessary, in the first instance, for such parliamentary agent, attorney or solicitor, or the executor, administrator or assignee of such parliamentary agent, attorney or solicitor, in proving a compliance with this act, to prove the contents of the bill delivered, sent or left by him, but it shall be sufficient to prove that a bill of costs, charges and expenses subscribed in manner aforesaid, or inclosed in or accompanied by such letter as aforesaid, was delivered, sent or left in manner aforesaid, but nevertheless it shall be competent for the other party to show that the bill so delivered, sent or left was not such a bill as constituted a bonâ fide compliance with this act: Provided also, that it shall be lawful for any judge of the superior courts of law or equity in England or Ireland, or of the Court of Session in Scotland, to authorize a parliamentary agent, attorney or solicitor to commence an action or suit for the recovery of his costs, charges and expenses against the parties chargeable therewith, although one month has not expired from the delivery of a bill as aforesaid, on proof to the satisfaction of the said judge that there is probable cause for believing that such party is about to quit that part of the United Kingdom in which such judge hath jurisdiction.

Evidence of delivery of bill.

Power to judge to authorize action before expiration of one month.

(b) See 28 Vict. c. 27, post; and as to costs in the Courts of Referees, 30 & 31 Vict. c. 136, s. 3, post. See also the statute relating to costs in the House of Lords, 12 & 13 Vict. c. 78, post.

**3.** The Speaker of the House of Commons shall appoint a fit person to be the taxing officer of the House of Commons, and every person so appointed shall hold his office during the pleasure of the Speaker, and shall execute the duties of his office conformably to such directions as he may from time to time receive from the Speaker.

Taxing officer to be appointed by Speaker.

**4.** The Speaker may from time to time prepare a list of such charges as it shall appear to him that, after the present session of Parliament, parliamentary agents, attornies, solicitors, and others may justly make with reference to the several matters comprised in such list; and the several charges therein specified shall be the utmost charges thenceforth to be allowed upon the taxation of any such bill of costs, charges, and expenses in respect of the several matters therein specified: Provided always, that the said taxing officer may allow all fair and reasonable costs, charges, and expenses in respect of any matters not included in such list.

Speaker to prepare list of charges thenceforth to be allowed.

**5.** For the purpose of any such taxation the said taxing officer may examine upon oath any party to such taxation, and any witnesses who may be examined in relation thereto, and may receive affidavits, sworn before him or before any master or master extraordinary of the High Court of Chancery, relative to such costs, charges, or expenses; and any person who on such examination on oath, or in any such affidavit, shall wilfully or corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

Taxing officer may examine parties and witnesses on oath.

**6.** The said taxing officer shall be empowered to call for the production of any books or writings in the hands of any party to such taxation relating to the matters of such taxation: Provided always, that nothing herein contained shall be construed to authorize such taxing officer to determine the amount of fees which may have been payable to the House of Commons in respect of the proceedings upon any private bill.

Taxing officer may call for books and papers.

**7.** It shall be lawful for the said taxing officer to demand and receive for any such taxation such fees as the House of Commons may from time to time by any standing order authorize and direct, and to charge the said fees, and also to award costs of such taxation against either party to such taxation, or in such proportion against each party as he may think fit, and he shall pay and apply the fees so received by him in such manner as shall be directed by any such standing order as aforesaid.

Taxing officer may take fees allowed by House of Commons.

Application of fees.

**8.** That if any person upon whom any demand shall be made by any parliamentary agent, attorney, or solicitor, or executor, administrator or assignee of such parliamentary agent, attorney, or solicitor, or other person, for any costs, charges, or expenses in respect of any proceedings in the House of Commons in any future session of parliament relating to any petition for a private bill, or private bill, or in respect of complying with the standing orders of the said house relative thereto, or in preparing, bringing in, or carrying the same through, or in opposing the same in the House of Commons, or if any parliamentary agent, attorney, or solicitor, or the executor, administrator, or assignee of such parliamentary agent, attorney, or solicitor, or other person, who shall be aggrieved by the non-payment of any costs, charges, and expenses incurred or charged by him in respect of any such proceedings as aforesaid, shall make application to the said taxing officer at his office for the taxation of such costs, charges, and expenses, the said taxing officer, on receiving a true copy of the bill of such costs, charges, and expenses which shall have been duly delivered as aforesaid to the party charged therewith, shall in due course proceed to tax and settle the same; and upon every such taxation, if either the parliamentary agent, attorney, or solicitor, or the executor, administrator, or assignee of such parliamentary agent, attorney, or solicitor, or other person, by whom such demand shall be made as aforesaid, or the party charged with such bill of

On application of party chargeable, or on application of parliamentary agent, the taxing officer to tax the bill.

costs, charges, and expenses, having due notice, shall refuse or neglect to attend such taxation, the said taxing officer may proceed to tax and settle such bill and demand ex parte; and if pending such taxation any action or other proceeding shall be commenced for the recovery of such bill of costs, charges, and expenses, the court or judge before whom the same shall be brought shall stay all proceedings thereon until the amount of such bill shall have been duly certified by the Speaker as hereinafter provided: Provided always, that no such application shall be entertained by the said taxing officer if made by the party charged with such bill after a verdict shall have been obtained or a writ of inquiry executed in any action for the recovery of the demand of any such parliamentary agent, attorney, or solicitor, or the executor, administrator, or assignee of such parliamentary agent, attorney, or solicitor, or other person, or after the expiration of six months after such bill shall have been delivered, sent, or left as aforesaid: provided also, that if any such application shall be made after the expiration of six months as aforesaid, it shall be lawful for the Speaker, if he shall so think fit, on receiving a report of special circumstances from the said taxing officer, to direct such bill to be taxed.

No application to be entertained by taxing officer after verdict obtained.

Report by taxing officer to Speaker.

**9.** That the said taxing officer shall, if required by either party, report his taxation to the Speaker, and in such report shall state the amount fairly chargeable in respect of such costs, charges, and expenses, together with the amount of costs and fees payable in respect of such taxation as aforesaid; and within twenty-one clear days after any such report shall have been made either party may deposit in the office of the said taxing officer a memorial, addressed to the Speaker, complaining of such report or any part thereof, and the Speaker may, if he shall so think fit, refer the same, together with such report, to the said taxing officer, and may require a further report in relation thereto, and on receiving such further report may direct the said taxing officer, if necessary, to amend his report; and if no such memorial be deposited as aforesaid, or so soon as the matters complained of in any such memorial shall have been finally disposed of, the Speaker shall, upon application made to him, deliver to the party concerned therein, and requiring the same, a certificate of the amount so ascertained, which certificate shall be binding and conclusive on the parties as to the matters comprised in such taxation, and as to the amount of such costs, charges, and expenses, and of the costs and fees payable in respect of such taxation, in all proceedings at law or in equity or otherwise; and in any action or other proceeding brought for the recovery of the amount so certified such certificate shall have the effect of a warrant of attorney to confess judgment; and the court in which such action shall be commenced, or any judge thereof, shall, on production of such certificate, order judgment to be entered up for the sum specified in such certificate in like manner as if the defendant in any such action had signed a warrant to confess judgment in such action to that amount: Provided always, that if such defendant shall have pleaded that he is not liable to the payment of such costs, charges, and expenses, such certificate shall be conclusive only as to the amount thereof which shall be payable by such defendant in case the plaintiff shall in such action recover the same.

Further report on complaint of either party.

If no complaint, Speaker may issue certificate of amount found due.

Certificate equivalent to warrant to confess judgment.

Interpretation clause.

**10.** That in the construction of this act the word "month" shall be taken to mean a calendar month; and every word importing the singular number only shall extend and be applied to several persons, matters, or things as well as one person, matter, or thing; and every word importing the plural number shall extend and be applied to one person, matter, or thing as well as several persons, matters, or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; and the word "person" shall extend to any body politic,

corporate, or collegiate, municipal, civil, or ecclesiastical, aggregate or sole, as well as an individual; and the word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other person allowed by law to make a declaration instead of making an oath; unless in any of the cases aforesaid it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

11. That in citing this act in other acts of Parliament, and in legal and other instruments, it shall be sufficient to use the expression "The House of Commons Costs Taxation Act, 1847." Short title.

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## 10 & 11 VICT. CAP. 85.

*An Act for giving further Facilities for the Transmission of Letters by Post, and for the regulating the Duties of Postage thereon, and for other Purposes relating to the Post Office.* [22nd July, 1847.

Sect. 16. And whereas by an act passed in the second year of the reign of her present Majesty, intituled "An Act to provide for the Conveyance of the Mails by Railways," provision is made for the transmission of the mails by railways: Be it enacted, That it shall be lawful for the postmaster-general to require, in the manner prescribed by the said last-mentioned act, that any mails and post letter bags shall be conveyed and forwarded by any railway company on their railway, under and pursuant to the said act, notwithstanding any guard or other officer of the post office shall not be sent with the same or in charge thereof, and such mails and post letter bags shall be conveyed and forwarded by such railway company accordingly. Power to send mails as prescribed by 1 & 2 Vict. c. 98, without a guard.

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## 10 & 11 VICT. CAP. 94.

*An Act to amend an Act to enable Canal Companies to become Carriers upon their Canals* (c). [22nd July, 1847.

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## 11 & 12 VICT. CAP. 72.

*An Act to amend the Acts relating to the Constabulary Force in Ireland, and to amend the Provisions for the Payment of Special Constables.* [31st August, 1848.

7. Whereas by an act of the eighth and ninth years of her present Majesty's reign, intituled "An Act for the Appointment of additional Constables for keeping the Peace near Public Works in Ireland" (*d*), pro- Where constabulary shall be required under 8 & 9 Vict. c. 46, to keep the peace near railway works, company, &c., requiring the same to pay the expense,

(c) This act enables canal companies to borrow money for the purposes of 8 & 9 Vict. c. 42, as to which, see ante, p. 134, n.

(*d*) Ante, p. 134.

vision is made for the appointment and payment of additional head and other constables for keeping the peace in certain cases in the neighbourhood of railway works or other public works in Ireland: Be it enacted, That, whenever such additional head or other constables shall have been or shall be appointed and employed for the purposes and under the provisions of the said last-recited act, the company or other parties carrying on such railway or other public works shall be chargeable for the expense of such head and other constables as in the said act provided, but according to the proportion of head and other constables hereinbefore provided (e), and also according to the scale of charge hereinbefore provided for head any other constables, save that such company or parties shall be chargeable for the whole and not for the moiety only of such respective rates of charge.

Constabulary to act in adjacent counties.

**9.** And be it enacted, that from and after the passing of this act the officers and men of the constabulary force shall have the same rights, powers and authorities in and for each of the counties, counties of cities, and counties of towns immediately adjacent to that to which they may have been appointed, as if they had been appointed for such counties, counties of cities, or counties of towns respectively.

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## 12 & 13 VICT. CAP. 78.

*An Act for the more effectual Taxation of Costs on Private Bills in the House of Lords, and to facilitate the taxation of other Costs on Private Bills in certain Cases.* [28th July, 1849.

Whereas . . . . it is expedient . . . . to make more effectual provision for taxing the costs and expenses to be charged by parliamentary agents, attornies, solicitors, and others, in future sessions of Parliament, in respect of bills subject to the payment of fees in Parliament, commonly called private bills, and to be incurred in complying with the standing orders of the House of Lords relative to such bills, and in preparing, bringing in, and carrying the same through, or in opposing the same in, the House of Lords, and to facilitate the taxation of other costs incurred in respect of private bills, in certain cases: Be it enacted [Repeal of 7 & 8 Geo. 4, c. 64, in *pari materiâ*].

[Sects. 2 and 4—9 of this act are identical with the corresponding sections of the House of Commons Taxation Act, 1847, 10 & 11 Vict. c. 69 (which see, p. 144, ante), except that for "House of Commons" must be read "House of Lords," and for "Speaker," "Clerk of the Parliaments," or clerk assistant in his absence.]

**2.** [Delivery of Taxed Bill.—Identical, *mutatis mutandis*, with sect. 2 of 10 & 11 Vict. c. 69, p. 144, ante.]

Taxing officer to be appointed by the clerk of Parliaments or clerk assistant.

**3.** The clerk of the Parliaments, when discharging the duties of his office in person, or in his absence the clerk assistant, shall appoint a fit person to be the taxing officer of the House of Lords; and every person so appointed shall hold his office during the pleasure of the clerk of the

(e) *I.e.*, by sect. 4, for each sub-inspector, 160*l.*, for each head constable, 70*l.*, and for each constable or sub-constable, 35*l.* 2*s.* 6*d.*, "and so on in proportion for every fractional part of a year;" and by sect. 5, for every fifty constables and sub-constables, one sub-inspector, and for every twenty-five constables and sub-constables, one head constable,

Parliaments or clerk assistant, and shall execute the duties of his office conformably to such directions as he may from time to time receive from the clerk of the Parliaments or clerk assistant.

**4.** [Preparation of List of Charges by Clerk of the Parliaments.—Identical, *mutatis mutandis*, with sect. 4 of 10 & 11 Vict. c. 69, p. 145, ante.]

**5—9.** [Powers and duties of Taxing Officer.—Identical, *mutatis mutandis*, with sects. 5—9 of 10 & 11 Vict. c. 69, ante.]

Taxing officer of either house may tax costs not otherwise taxable under the act by virtue of which any bill shall be taxed.

**10.** If any bill of costs taxable by virtue of this act, or of "The House of Commons Costs Taxation Act, 1847" (*f*), shall comprise any costs, charges, and expenses incurred in respect of a private bill, but not taxable by virtue of the act in pursuance whereof such bill shall come to be taxed, it shall be lawful for the taxing officer of the House of Lords, or for the taxing officer of the House of Commons, as the case may be, either to tax and settle such last-mentioned costs, charges, and expenses, or to request the taxing officer of the other House of Parliament, or the proper officer of any other court having such an officer, to assist him in taxing and settling any part of such bill; and such officer so requested shall thereupon proceed to tax and settle the same, and shall return the same, with his opinion thereupon, to the officer who shall have so requested him to tax and settle the same; and in taxing such costs, charges, and expenses the taxing officer of the House of Lords and the taxing officer of the House of Commons respectively shall have the same powers and may receive the same fees in respect of such taxation as if such costs, charges, and expenses were taxable by virtue of this act, or of the "House of Commons Costs Taxation Act, 1847," as the case may be; and the proper officer of any court so requested to tax the same shall have the same powers and may receive the same fees as upon a reference from the court of which he is such officer.

Taxing officers may include such costs in their reports. Certificates of the amount to be delivered.

**11.** The taxing officer of the House of Lords, or the taxing officer of the House of Commons, as the case may be, may include the amount of such last-mentioned costs, charges, and expenses in the report of his taxation of any such bill of costs; and in case the clerk of the Parliaments or clerk assistant, or the Speaker of the House of Commons, as the case may be, shall deliver a certificate of the amount so ascertained and declared in such report, including such last-mentioned costs, charges, and expenses, such certificate shall have the same force and effect as if the whole of such bill of costs were taxable by virtue of the act in pursuance whereof such certificate shall be so delivered.

Officers of other courts may request the taxing officer of either house to tax parts of bills.

**12.** In case the taxing officer of the House of Lords, or the taxing officer of the House of Commons, shall be requested by the proper officer of any other court to assist him in taxing and settling any costs, charges, and expenses incurred in respect of a private bill, being part of any bill of costs which shall have been referred to him by the court of which he is such officer, such taxing officer so requested shall thereupon proceed to tax and settle the same, and shall return the same, with his opinion thereupon, to the officer who shall have so requested him to tax and settle the same, and shall have the same powers and may receive the same fees in respect of such taxation as if application had been made to him for the taxation thereof in pursuance of this act, or of "The House of Commons Costs Taxation Act, 1847" (*f*), as the case may be.

Taxing officer of either house may take an account between the parties.

**13.** It shall be lawful for the taxing officer of the House of Lords and for the taxing officer of the House of Commons to take an account between the parties to any taxation under this act or the "House of

(*f*) Ante, p. 144.

Commons Costs Taxation Act, 1847," of all sums of money paid or received in respect of any bill of costs which is the subject of such taxation, or any matters contained therein, and to report the amount of all such sums of money and the amount due in respect of such bills of costs.

**14.** [Interpretation Clause.—Identical with 10 & 11 Vict. c. 69, s. 10, p. 146, ante.]

Short title.

**15.** In citing this act in other acts of Parliament, and in legal and other instruments, it shall be sufficient to use the expression "The House of Lords Costs Taxation Act, 1849."

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## 13 & 14 VICT. CAP. XXXIII.

*An Act for regulating Legal Proceedings by or against the Committee of Railway Companies associated under the Railway Clearing System, and for other purposes (g).*

[25th June, 1850.

Whereas for some time past arrangements have subsisted between several railway companies for the transmission without interruption of the through traffic in passengers, animals, minerals, and goods passing over different lines of railway, for the purpose of affording, in respect to such passengers, animals, minerals, and goods, the same or the like facilities as if such lines had belonged to one company, which arrangements are commonly known as and in this act are designated as "the clearing system," and which arrangements are conducted under the superintendence of a committee appointed by the boards of directors of such several railway companies, which committee is in this act designated "the committee," and the business of such committee has heretofore been and is now carried on at a building appropriated for the purpose in Seymour Street, adjoining the Euston station of the London and North Western Railway Company: And whereas the clearing system has been productive of great convenience to the public, and of a considerable saving of expense in the transmission of passengers, animals, minerals, and goods over the lines of the several railway companies parties to such association; but considerable difficulty has been experienced in carrying into effect the objects of the association, in consequence of the committee not possessing the power of prosecuting or defending actions or suits, or taking other legal proceedings: And whereas George Carr Glyn, Esquire, is the present chairman, and Kenneth Morison is the present secretary of the committee: And whereas the purposes aforesaid cannot be effected without the authority of Parliament: May it therefore please your Majesty that it may be enacted; and be it enacted by (&c. &c.), That the several companies which at the time of the passing of this act are parties to the clearing system, and every other company which shall in manner hereafter mentioned become party to the same, shall be subject to the provisions of this act.

Companies parties to the clearing system to be subject to the act.

Other companies may join, with assent of committee.

**2.** And be it enacted, That if any company which may not be a party to the clearing system shall, by writing sealed with the common seal of such company, request the committee to admit such company to be a party to the clearing system, and the committee shall assent to such request, such company shall from the time of such assent being given, or at such other

(g) The "Irish Clearing House Act" is 23 & 24 Vict. c. xxix., post.

time as may be specified in the said request, become a party to the clearing system.

Companies may retire on giving notice

**3.** And be it enacted, That if any company shall, by writing sealed with the common seal of such company, give notice to the committee of the desire of such company to cease to be a party to the clearing system, such company shall, at the expiration of one calendar month from the time when such notice shall be given, or if a more distant time shall be stated in such notice then at the time so stated, cease to be a party to the clearing system.

Committee may give company notice to retire.

**4.** And be it enacted, That if not less than two-thirds of the committee present at a meeting specially summoned shall, by writing signed by their secretary, or by two members of the committee, give notice to any company that such company shall cease to be a party to the clearing system at a time named in such notice, not being less than one calendar month from the time of giving such notice, such company shall at the time so named cease to be a party to the clearing system.

Each company to appoint a member of the committee.

**5.** And be it enacted, That each company party to the clearing system shall at all times be entitled to be represented on the committee by one delegate appointed by the board of directors of such company from time to time, such appointment to be certified in writing by the secretary or any two directors of such company: Provided always, that, notwithstanding any company may happen to be unrepresented by a delegate at any meeting, the acts of the committee shall be valid.

Meetings of the committee, quorum, &c.

**6.** And be it enacted, That the committee shall meet at one of the clock in the afternoon of the second Wednesday in the months of March, June, September, and December in every year, or so soon thereafter as a quorum shall be assembled, and at any other times whereof the secretary shall, at the written request of the chairman for the time being, or any two members of the committee, give at least ten days' notice in writing to every company party to the clearing system, or the secretary of every such company; and every such meeting may be adjourned from time to time and from place to place as the committee shall think proper; and meetings and adjourned meetings of the committee shall be held at the said building in Seymour Street, except when the committee shall have appointed some other place, and then at such other place; and in order to constitute a meeting of the committee there shall be present at least ten members; and, except where otherwise provided, all questions at every meeting shall be determined by the majority of votes of the committee present, and in case of an equal division of votes the chairman of the meeting shall have a casting vote, in addition to his vote as one of the committee; and notice of the business to be brought before any meeting shall, at least six days before the day of such meeting, be given to every company party to the clearing system, or the secretary of every such company.

Appointment of the chairman.

**7.** And be it enacted, That until the first meeting of the committee which shall be held after the passing of this act the said George Carr Glyn, or other the chairman of the committee for the time being, shall continue in office; and at the first meeting of the committee which shall be held after the passing of this act, and in the month of March in each succeeding year, the committee present at the meeting shall, if they think fit, either continue in office the chairman for the time being, or choose another chairman; and a general meeting of the committee specially summoned shall have power to remove any chairman; and if any chairman shall die, or resign, or be removed, the committee shall have power, as soon as may be, to choose some other person to fill the vacancy thereby occasioned; but every chairman elected to supply a vacancy other than at a general meeting in the month of March in any year shall continue in office so long only as

the person in whose place he shall be so elected would have been entitled to continue if such death, resignation, or removal had not happened: Provided always, that it shall not be necessary that the person chosen as chairman be a delegate of any of the companies parties to the clearing system; but in case he shall not be a delegate he shall not be entitled to vote on any question, unless in the case of an equality of votes, when he shall be entitled to give the casting vote.

Absence of chairman.

**8.** And be it enacted, That if at any meeting of the committee the chairman shall not be present the committee present shall choose one of their members to be chairman of such meeting.

Appointment of secretary.

**9.** And be it enacted, That the said Kenneth Morison shall be the secretary to the committee until he die, or resign, or be removed; and that the committee shall have the power to remove him and all future secretaries; and that in the event of the resignation, or death, or such removal as aforesaid of any secretary, the committee shall appoint a secretary to the committee.

Appointment of treasurer.

**10.** And be it enacted, That the committee may from time to time appoint a treasurer, and remove such treasurer from his appointment, and prescribe and alter the duties of the office of treasurer, and take from the treasurer such security as they shall think fit, which security may be taken in the name or names of such person or persons as the committee approve of.

As to monies received by committee.

**11.** And be it enacted, That any money which shall be received by the committee shall be held by the committee as trustees for the company or companies to whom the committee shall decide such money to be payable; but no member of the said committee shall be answerable for any such money as may be lost or withheld by reason of the misconduct, default, or insolvency of the treasurer, or of any banker or agent in whose hands the same may be, or by reason of any cause other than the personal misconduct of such member.

Accounts to be settled, and balance ascertained and declared by the committee.

**12.** And be it enacted, That the accounts of the clearing system, and the balances due to and from the several companies parties thereto, shall be settled and adjusted by the secretary of the committee for the time being, which secretary shall also settle and determine the amount to be from time to time contributed to the funds of the clearing system by the companies parties thereto; and in case of any difference respecting such accounts the decision of the committee, to the effect that any balance or sum is payable by any company then or theretofore party to the clearing system, shall be final and conclusive, and such sum or balance shall be a debt due to the said committee.

Expenses to be paid out of the funds of the clearing system.

**13.** And be it enacted, That the committee shall, out of the funds of the clearing system, pay all the expenses of the clearing system, and all costs, charges, damages, and expenses which the members of the committee, or any or either of them, shall as such members or member, or which the secretary as nominal plaintiff or defendant, or other party, on behalf of the committee, bear, sustain, or be put to, and that the members of the committee and secretary shall be completely indemnified and saved harmless out of the funds of the clearing system, and by the companies parties to the clearing system, of, from, and against all action and actions, suit and suits, proceeding and proceedings, of any sort, costs, charges, damages, and expenses, to which they or any or either of them may in any way be subjected, as members or member of the committee, by reason of anything which they or he may bonâ fide do or omit to do, whether such deed or omission be within their powers or not.

Committee may sue for balances or sums due.

**14.** And be it enacted, That the committee may, by action of debt in the name of their secretary, recover from any company any balance or sum

which such committee shall decide to be payable by such company, whether to any other company or on account of the clearing system, and whether such company be still at the time of such decision or has then ceased to be a party to the clearing system, and whether such sum or balance shall or shall not have been previously ascertained by the secretary to be payable.

**15.** And be it enacted, That the declaration for the recovery of such sum or balance may be in the form or to the effect of the form given in the Schedule (A) to this act annexed, and that the directions contained in the said schedule for the use of the same shall be taken as part of this act. Form of action for the recovery of such balances or sums.

**16.** And be it enacted, That if the defendants in such action shall plead that they never were indebted, then, on proof that the committee decided the sum in question to be payable by the defendants, and that the defendants were either at the time of such decision or at some previous time a party to the clearing system, and in the latter case upon further proof that such sum was decided to be payable in respect of some transactions, matters, or expenses which happened or were sustained whilst the defendants were parties to the clearing system, the plaintiff shall be entitled to a verdict on that plea. Evidence.

**17.** And be it enacted, That the defendants in such action may plead any matter showing that they have since the time of the decision discharged the sum or balance so decided to be payable, and shall not plead any plea with a plea denying the plaintiff to be secretary. Plea.

**18.** And be it enacted, That the committee shall cause notes, minutes, or copies, as the case may require, of all appointments made or contracts entered into by them, and of the orders and proceedings of all their meetings, to be duly entered in books to be kept by them for that purpose; and every such entry shall be signed by the chairman of the meeting at which such appointments, contracts, orders, or proceedings respectively took place, who shall add the word "chairman" to his signature, and which entries may be made and signed either at or after the meetings to which they respectively relate; and every entry purporting to be so signed shall be received as evidence in all courts, and before all judges, justices, and others, without proof of such respective meetings having been duly convened or held, or of the persons making or entering such orders or proceedings being members of the committee, or of the signature of such chairman, or of the fact of his having been chairman, all which last-mentioned matters shall be presumed, till the contrary be proved. Entries in books.

**19.** And be it enacted, That on the trial of any such action, after it is proved to the satisfaction of the court or judge trying the cause that such company is or had once been such a party, the books kept by the committee shall be primâ facie evidence of the truth of the matters therein stated and contained; and the secretary, although the nominal plaintiff, and the members of the committee, shall be competent witnesses, either for the plaintiff or for the defendants. Books of the committee to be primâ facie evidence.

**20.** And be it enacted, That the committee may in all cases sue and be sued in the name of the secretary to the committee; and that in all proceedings at law and in equity, and in bankruptcy, or of any other sort, whether civil or criminal, the name of the secretary may be used instead of the names of the members of the committee; and proofs, in cases of bankruptcy, insolvency, or in winding up affairs, may be made by the secretary for the committee. Committee may sue or be sued in the name of their secretary.

**21.** And be it enacted, That in any indictment or information for any felony or misdemeanor wherein it shall be necessary to state the ownership of any property whatsoever, whether real or personal, and the same shall either belong to the committee or be in their custody, or in the custody or In criminal proceedings, property of committee to be deemed the property of secretary.

possession of any officer, clerk, or servant of the committee, or of any person employed for the purpose or in the capacity of clerk or servant by the committee, or in or on any building or land used for the purposes of the clearing system, or shall be used or intended to be used for the purposes of the clearing system, it shall be sufficient to state such property to belong to the secretary of the committee.

Criminal proceedings to be in name of secretary.

**22.** And be it enacted, That in any indictment for embezzlement, wherein it shall be necessary to state the party charged with the embezzlement to have been the clerk or servant of some master or masters, or to have been employed for the purpose or in the capacity of clerk or servant by some master or masters, and such masters shall have been the committee, it shall be sufficient in such indictment to name the secretary of the committee in every place in such indictment where the names of the members of the committee would but for this enactment be required to be inserted.

Service of notices.

**23.** And be it enacted, That every notice or requisition on the business of the clearing system, or given pursuant to this act, shall be sufficient if it be in writing signed by the secretary of the committee, or secretary or other officer of the company giving the same, and if it be sent by the General Post addressed to the secretary of the company for whom the same is intended, in case such notice or requisition be intended for any company, or to the secretary at the principal office of the clearing system, in case such notice or requisition be intended for the committee; and proof of such notice or requisition being deposited in any public letter box or receiving house for letters, intended to be forwarded by the General Post, shall be deemed proof of the due service of such notice or requisition; and notices or requisitions for each member of the committee shall be sufficient if sent in manner aforesaid, addressed to him at the principal office of the company whom he represents.

Mode in which the companies and committee are to be described in legal proceedings.

**24.** And be it enacted, That in all pleadings or proceedings, civil or criminal, when it shall be required to mention all the companies parties to the clearing system, or the committee, it shall be sufficient to mention the companies by the description of "The Companies Parties to the Clearing System mentioned in the Railway Clearing Act, 1850," and to describe the committee by the description of "The Clearing Committee mentioned in the Railway Clearing Act, 1850," without stating the names of the individual companies and members.

Description of the secretary in legal proceedings.

**25.** And be it enacted, That in all cases where the name of the secretary to the committee shall be used under the authority of this act it shall be sufficient to name and describe him, and to state the authority for using his name, as in the form of declaration in Schedule (A).

Actions, &c., not to abate on death or removal of secretary.

**26.** And be it enacted, That upon the death or removal of any secretary no action or suit or other proceeding pending in his name, as plaintiff or defendant or otherwise, either on behalf of or against the committee, shall abate or be stayed, but as soon as another secretary shall be appointed the name of such new secretary shall be thereinafter used; and in an action at law such name shall, whether it be before or after judgment, be introduced by suggestion, to which no plea or demurrer shall be allowed; and the omission to make such suggestion, and an erroneous suggestion, shall be mere irregularities, and shall, on the application of the committee or of the party opposed to the committee, be rectified, but shall not otherwise be taken advantage of.

Expenses of act.

**27.** And be it enacted, That all the costs, charges, and expenses of obtaining and passing this act or incident thereto shall be paid by the said committee out of the first monies which shall come to their hands after the passing of this act.

**28.** And be it enacted, That this act may be called "The Railway Clearing Act, 1850," and shall be deemed to be a public act, and as such shall be judicially noticed. Short title and public act.

SCHEDULE (A.)

to wit. } A. B., secretary to the clearing committee, and now named by virtue of the Railway Clearing Act, 1850, by C. D. his attorney, complains of X. Y., who have been summoned to answer the said A. B. in an action of debt, for that the clearing committee have decided that the sum of 100*l.* is payable by the defendants, as parties to the clearing system, by means whereof an action has accrued to the said committee to demand in the name of their secretary the said sum of 100*l.*, yet the defendants have not paid the same to the damage of the said committee of 10*l.*, and thereupon the plaintiff, by virtue of the said act, brings suit.

*Directions for using the above Form.*

Substitute for A. B. the name of the secretary, and for C. D. the name of his attorney, and for X. Y. the name of the company defendant, and for the sums such sums as the case may require, and add the venue. Several counts may be inserted on the above model where several sums are sought to be recovered.

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## 13 & 14 VICT. CAP. 83.

*An Act to facilitate the Abandonment of Railways, and the Dissolution of Railway Companies, in certain cases (h).*

[14th August, 1850.

'Whereas divers joint stock companies have been incorporated by act of Parliament for making railways, and it has been found that such railways, or certain parts thereof, cannot be made or carried on with advantage either to the promoters thereof or to the public, and it is expedient therefore that facilities should be given for the abandonment of such railways or parts of railways, and for the dissolution of such companies, or some of them, and winding up the concerns thereof: Be it therefore enacted, That if any company authorized by act of Parliament heretofore passed to make a railway desire that the making and carrying on of such railway or some part thereof, whether commenced or not, be abandoned, such company may, by the authority and with the consent of the holders of three-fifths of the shares or stock of such company, represented in manner hereinafter mentioned at a general meeting of shareholders to be convened in manner hereinafter mentioned, make application in writing to the *commissioners of railways* (*i*), setting forth the particulars of the railway or portion of the railway desired to be abandoned by them, and the grounds upon which such application is made. Railway company may apply to Board of Trade to be allowed to abandon railway.

**2.** That it shall be lawful for the directors of any such railway company at any time to call a meeting of the shareholders thereof for the purpose of determining whether such application shall be made to the commissioners of railways, and so from time to time as they shall see fit. Directors may call meeting to consider such application.

**3.** That it shall be lawful for any number of shareholders of any such company, not being less than five, and holding in the aggregate not less than one-twentieth of the capital or stock of the company, consisting of Shareholders may require directors to call meeting.

(*h*) See also 30 & 31 Vict. c. 126 (Scotland), and c. 127, s. 31, post.

(*i*) This application must now be made to the *Board of Trade*. See 14 & 15 Vict. c. 64, post.

shares or stock whereon all calls for the time being have been paid up, but exclusive of any shares or stock held by or in the names of the directors of the company or any of them, or by or in the name of any person in trust for the directors or any of them, or for the company, and which shareholders shall have paid all the calls then due on the shares held by them, by writing under their hands to require the directors of such company to call a meeting for the purpose aforesaid; and upon the receipt of any such requisition such directors shall forthwith proceed to call a meeting of the shareholders of such company on a day to be named by them, not being less than fourteen nor more than twenty-eight days after the receipt of such requisition: Provided always, on the default of the directors to call and advertise such meeting within fourteen days after the receipt of the requisition, it shall be lawful for the requisitionists to call such meeting themselves, at a time and place to be appointed by them, of which fourteen days' notice shall be given by them by advertisement as hereinafter provided: Provided also, that when any meeting of any such company shall have been called pursuant to any such requisition as aforesaid, the directors of such company shall not be required to call any further meeting of such company upon any further requisition for the like object until twelve months shall have elapsed since the holding of such previous meeting.

After receipt of requisition, directors not to make any payments, except under existing liabilities, nor to enter into new contracts, nor to make new calls.

**4.** That after any such meeting has been called by the directors, or after the receipt of any such requisition as aforesaid, it shall not be lawful for the directors to make any payments out of the monies of the company for the purposes of the railway proposed to be abandoned, except in discharge of bonâ fide debts or liabilities, or in performance of contracts or engagements previously entered into, and in payment of the expenses of calling and holding such meeting, nor to enter into any contracts or engagements on behalf of the company with respect to the railway so proposed to be abandoned, nor to make any calls, nor to register the transfer of any shares, until the meeting called as aforesaid shall have determined whether such application shall be made.

Mode of calling meeting, and signifying the consent of the shareholders to the application.

**5.** That the calling of any such meeting shall be by public advertisement in the manner required or usually adopted for advertising the extraordinary general meetings of such company, and where such meeting is called by the directors of the company a circular letter shall be sent by the post addressed to each of the registered shareholders of such company, according to his registered address or other known address, seven clear days at least before the holding of such meeting, and stating that a general meeting of the shareholders of such company will be held at a time and place mentioned in such circular for the purpose of determining whether application shall be made to the commissioners of railways that such railway or the part thereof specified in such notice may be abandoned, and requesting such shareholder to signify his assent to or dissent therefrom, which may be according to a form to be contained in such circular letter, which form shall be to the effect set forth in the schedule hereto, and such circular letter shall request such shareholder either to return such form, signed by him, in a letter addressed to the secretary of such company, or to attend such general meeting as aforesaid, and deliver the same, so signed by him, to the chairman thereof; and in the case of every such meeting, whether called by the directors or by such requisitionists as aforesaid, the shareholders may signify their assent to or dissent from the proposed application, either by attending such meeting in person or by letter addressed to the secretary of the company, stating the assent or dissent of such shareholders, in a form which shall be to the effect of the form set forth in the schedule hereto, and signed by such shareholders respectively.

**6.** That at the meeting so to be called as aforesaid the scrutineers to be appointed as hereinafter mentioned shall cast up the amount of shares held by shareholders assenting to the making of such application, and the amount of shares held by shareholders dissenting therefrom, whether such assent or dissent have been signified by the shareholders sending to the secretary of the company such form as aforesaid, signed by him, or by such shareholder attending such meeting, and delivering in the same to the chairman thereof, and such scrutineers shall report to the chairman the amount of shares of the shareholders assenting to such application, and the amount of the shares of those dissenting therefrom, and the said chairman shall thereupon publicly announce to the meeting the said amounts respectively, and shall state whether or not the holders of three-fifths of the whole of such shares represented in manner aforesaid at the meeting consent to such application: Provided always, that in computing the amount of shares of the shareholders assenting or dissenting as aforesaid no share shall be taken into account the holder whereof shall not have been duly registered, or who shall not have paid all the calls then due by him upon all the shares held by him, unless such calls shall have been made within three months prior to the holding of such meeting, or if such meeting be held pursuant to a requisition of shareholders as hereinbefore provided, then three months prior to the day on which such requisition was presented to the directors.

The number of the shareholders assenting or dissenting to be ascertained by scrutineers, and reported to the chairman

**7.** That the chairman of the directors of such company, if present, or in his absence the deputy chairman, if any, of such directors, shall be the chairman of such meeting as aforesaid, or if neither such chairman or deputy chairman of the directors be present, any shareholder chosen for that purpose by a majority of the shareholders present at the meeting shall be the chairman thereof.

Chairman of the meeting.

**8.** That at every such meeting the shareholders present thereat shall elect three shareholders of the company to be scrutineers for the purposes aforesaid, and in electing such scrutineers each shareholder shall have one vote only, and shall vote for one scrutineer only; and the decision of such scrutineers, or of any two of them, upon any of the matters hereby intrusted to them, shall be final in all respects.

Meeting to elect scrutineers.

**9.** That for the purpose of receiving the report of the said scrutineers the chairman of such meeting may, if he think fit, on the application of any one of such scrutineers, and he shall, if required by more than one of such scrutineers, adjourn such meeting to some time to be appointed by him, not less than one clear day nor more than seven clear days from the day of holding such meeting.

Adjournment of meeting on application of scrutineers.

**10.** That a certificate under the hand of the chairman of the meeting, stating that such meeting as aforesaid has been duly held, and such consent given as aforesaid in cases where the same is given, shall within one week after the day of holding such meeting be deposited in the office of the said commissioners of railways.

Certificate of the chairman to be evidence.

**11.** Provided always, and be it enacted, That if it appear to any of the shareholders of any such company who shall have signed any such requisition, or been present at any such meeting as aforesaid at which the proposal to apply to the said commissioners (*k*) to authorize the abandonment of the whole or part of a railway shall have been negatived or alleged to be negatived, either that such meeting was not duly called, or that the sense thereof was not duly taken according to the true intent and meaning of this act, and that if such meeting had been duly called, and the sense thereof duly taken, the consent of such meeting to the proposed application

Shareholders desiring abandonment, and complaining that the sense of the company has not been fairly ascertained, may apply to the Board of Trade.

(*k*) The Board of Trade is now substituted for the Commissioners of Railways. See 14 & 15 Vict. c. 64, post.

would have been given, it shall be lawful for any such shareholders, not being less in number than five, and holding in the aggregate not less than one-twentieth of the capital or stock of the company, consisting of shares or stock whereon all calls for the time being have been paid up, and which shareholders shall have paid all the calls then due on the shares held by them, to apply to the said commissioners, setting forth in writing the grounds on which they complain of the decision alleged to have been come to at such meeting as aforesaid, and praying that a further meeting may be called, and if it appear to the said commissioners (after hearing the parties complained of, if they desire to be heard) that there is good reason to believe that if such meeting had been duly called, and the sense thereof duly taken, the consent of such meeting to the proposed application to the said commissioners would have been given, the said commissioners shall certify their judgment to that effect, and shall direct a further meeting to be called by the directors of such company at the time and place to be appointed by the said commissioners, and the said directors shall call such meeting accordingly, or in default thereof it shall be lawful for the shareholders who complained to the said commissioners of the proceedings of the former meeting to call such meeting, and all the provisions of this act shall apply to any further meeting so directed to be called in like manner as to any original meeting hereinbefore authorized or required to be called.

If meeting determine that application shall be made directors not to proceed meanwhile.

**12.** That if at any such meeting any railway company shall determine, as hereinbefore mentioned, that such application as aforesaid shall be made, or if the said commissioners shall certify as aforesaid their judgment, that if such meeting had been duly called and the sense thereof duly taken the consent of such meeting to the proposed application to the said commissioners would have been given, then, as from the date of the resolution so come to at such meeting, or the date of the said certificate, as the case may be, the directors of such company shall not have power to proceed any further with the making of the railway, or the part thereof so proposed to be abandoned, until the decision of the commissioners of railways with respect to such application be made, and then only in accordance with such decision.

Board of Trade to direct advertisements of application.

**13.** That if it appear to the said commissioners that there are sufficient grounds for entertaining such application, the said commissioners shall require and direct the company making the same to give notice of such application having been made, by advertisement inserted, in a form to be approved of by the said commissioners, once in the London, Edinburgh, or Dublin Gazette, according as the railway or part of the railway proposed to be abandoned is situate in England, Scotland, or Ireland, and once in each of three successive weeks in some newspaper published or circulating in each county in which any part proposed to be abandoned of such railway is situated, and affixed for three successive Sundays on the principal outer door of the church or churches of every parish in which any part of such railway where the whole is proposed to be abandoned, or in which any part proposed to be abandoned, is situate, and in Ireland such notice shall also be affixed to the Roman Catholic Chapel, and where there shall be no such church or chapel on some public or conspicuous place of such parish; and every such notice shall set forth within what time and in what manner any person who thinks himself aggrieved by any such proposed abandonment, and who desires to object thereto, may bring such objection before the commissioners (*l*).

Board of Trade may inspect the company's books, &c., and send an officer for local inspection.

**14.** That, for the purpose of ascertaining the state and condition of the company making any such application, and of inquiring into the expediency of the proposed abandonment of railway, and of determining the terms and

(*l*) Now Board of Trade, see 14 & 15 Vict. c. 64, post.

conditions on which the same may be authorized by them, it shall be lawful for the commissioners of railways, by themselves or by any officer appointed and specially empowered by them for that purpose, to inspect the books of accounts, minutes of proceedings, or any other books, papers or documents in the possession or control of such company, and also, if they see fit so to do, to send, at the expense of such railway company, or at the expense of any person who applies to them for that purpose, an officer to be appointed by them to inspect the railway or proposed railway or work so proposed to be abandoned, and to collect evidence on the spot relative to such abandonment; and if any such company, or any of their officers or servants, shall refuse such inspection by the said commissioners, or any officer appointed and specially empowered by them for that purpose, or refuse or wilfully neglect to produce to the said commissioners or any such officer, on demand, any books, papers, or documents in the possession or control of such company, every such company shall for every such refusal or neglect, forfeit to her Majesty the sum of twenty pounds, and a further sum of five pounds for every day during which such refusal or wilful neglect shall be continued.

Warrant for abandonment of railway.

**15**. That upon proof to the satisfaction of the said commissioners that such notice has been duly given, and after the expiration of the time therein appointed for bringing objections before the said commissioners, and after considering all the objections, if any, brought before them, the said commissioners may, if they think fit (*m*), and upon such terms and conditions as they think fit, by warrant under their seal, and signed by two or more of the said commissioners, authorize the abandonment of the railway or portion of railway described in such warrant.

In considering objections of shareholders to partial abandonment, regard to be had to local circumstances.

**16**. Provided always, and be it enacted, That in considering the objections which may be made by any of the shareholders of any railway company to the proposed abandonment of a part only of the railway of such company, and in determining the terms and conditions on which the said commissioners may think fit to authorize any such partial abandonment, the said commissioners shall have regard to the local situation of the lands and residences of the shareholders so objecting with reference to the portion of railway proposed to be abandoned: and in the case of any such shareholders being original subscribers to the undertaking, and not being solicitors, agents, or engineers employed in promoting the same, and whose places of residence or lands are adjoining or near the line of the portion of railway so proposed to be abandoned, it shall be lawful for the said commissioners, if they think fit so to do, in any direction which (under the provision hereinafter contained) they may give for reducing the capital of the company authorized to construct such railway, to provide, at the request of any such last-mentioned shareholders, that the nominal amount of the shares held by them in such company may be reduced to the amount then already paid up by them respectively, or to such other extent as the said commissioners may think fit to order in that behalf, or the said commissioners may, at the like request, direct any such shares to be cancelled, and a part of the monies that may have been paid up in respect of such shares, bearing such proportion to the whole as the said commissioners having regard to all the circumstances of the case shall think fit to determine, to be repaid to such shareholders.

Power to cancel shares of objectors.

Abandonment of railway to be advertised and demands on the company for compensation to be sent in.

**17**. That within one month after the day on which any such warrant as aforesaid is granted by the said commissioners the railway company to which the same applies shall cause notice thereof to be inserted in the London, Edinburgh, or Dublin Gazette, according as the railway or part of railway mentioned therein is situate in England, Scotland, or Ireland, and

(*m*) This is not obligatory, see 30 & 31 Vict, c. 127, s. 31, post.

once in each of three successive weeks in some newspaper published or circulating in each county in which any part of such abandoned railway is situate, and to be affixed for three successive Sundays on the principal outer door of the church or churches of every parish in which any such part of such railway is situate, and in Ireland such notice shall also be affixed to the Roman Catholic Chapel, and where there shall be no such church or chapel, on some public or conspicuous place of such parish; and every such notice shall require all persons having any claims or demands upon the said company for compensation or otherwise, by reason of the abandonment of railway authorized by such warrant, to transmit the statement of such claims or demands to the secretary of such company, at the office or usual place of business of the same company, within four months from the date of such warrant (*n*).

Certificate of publication of notice of warrant.

**18** That, upon proof to the satisfaction of the said commissioners that notice of such warrant has been duly published in manner hereinbefore required, the said commissioners shall certify the same accordingly; and such certificate shall be received in all courts of justice or elsewhere as evidence that such notice was duly published as aforesaid.

After warrant, company to be released from making railway.

**19.** That after the granting of any such warrant, and the publication of such notice thereof as aforesaid, the company shall (subject to the provisions hereinafter contained) be released from all liability to make, maintain, or work the railway mentioned in such warrant, or the part thereof thereby authorized to be abandoned, or to purchase any of the lands required for the making thereof, or to complete the purchase of any such lands for the purchase of which notice may have been given, or any contract entered into, by or on behalf of the company, or to complete any contract for or concerning the making, maintaining, or working of the railway so to be abandoned, or any other contract relating to the railway or part of railway so authorized to be abandoned which by reason of such abandonment cannot be performed: Provided always, that nothing in this act contained shall extend to release the company from any liability to complete the purchase of any land for the purchase of which any contract may have been entered into by or on behalf of the company, and which contract may have been in part performed, or by virtue or in pursuance of which a specified sum or price as the consideration for the purchase of the lands thereby agreed to be sold to or taken by the company shall have been fixed or ascertained previously to the passing of this act, notwithstanding the time for the completion of the purchase named in such contract shall have been subsequently extended by agreement or arrangement with the company.

Saving for purchase of land.

Compensation to be made where contracts have been entered into or notice given.

**20.** Provided always, and be it enacted, That in every case in which before the granting of any such warrant any notice hath been given or contract entered into by or on behalf of the company named therein for purchasing any lands which such company were by the acts relating thereto empowered to purchase for the purpose of constructing the railway or portion of railway so authorized to be abandoned, and from which contract such company would be relieved under the provisions hereinbefore contained, or where any contract hath been entered into for or concerning the constructing, maintaining, or working of the railway or part of railway so authorized to be abandoned, or any other contract relating thereto, which by reason of such abandonment cannot be performed, the company shall make to the owners or occupiers of and other parties interested in such lands, or being parties to such contracts as aforesaid, compensation, to be determined by arbitration as hereinafter mentioned, for all injury or damage, if any, sustained by such owners, occupiers, and other parties by reason of

(*n*) See 32 & 33 Vict. c. 114, s. 9, post.

such purchase not being completed pursuant to such notice, or by reason of such contract not being performed.

Compensation to adjoining land-owners in lieu of accommodation works.

**21.** That where any railway or part of a railway so authorized to be abandoned shall have been then made or commenced, such company shall make to the owners and occupiers of the lands adjoining the railway or part of a railway so commenced or made, and authorized to be abandoned, compensation, to be determined by arbitration as hereinafter mentioned, for all such injury or damage, if any, as shall be sustained by such owners or occupiers by reason of the omission to make gates, passages, drains, watercourses, bridges, and such other works for the accommodation of lands adjoining the railway, as such company would have been required to make if such railway had not been allowed to be abandoned.

Bridge or Tunnel Company to make compensation or restore road to its former state.

**22.** That where the line of any railway so authorized to be abandoned shall have been wholly or partially laid out, and any road shall have been carried across such line of railway by means of a bridge or tunnel over or under such railway, which bridge or tunnel the company to whom such railway belonged would, in case the same had not been abandoned, have been liable to keep in repair, then in every such case, except where such bridge or tunnel shall, with the permission of the said commissioners, be by such company removed, and such road restored to the like or an equally convenient and good state as the same was in before it was interfered with by the makers of such railway, to the satisfaction (in case of difference between such company and the owner or persons having the management of such road) of the commissioners of railways, such company shall pay to the owner of such road, if it be a private road, or to the trustees, surveyors of highways, or other persons having the management of such road, if it be a turnpike or other public road, a sum of money, to be determined by arbitration as after mentioned, in lieu and discharge of their liability to keep such bridge or tunnel, and also the roadway over the same, in repair.

Compensation to trustees and overseers of public roads, how to be applied.

**23.** That every sum so to be paid as last aforesaid to such trustees, surveyors, or other persons as aforesaid, shall be by them forthwith paid over to the treasurer of the county where the bridge or tunnel in respect of which such sum was paid is situate, and shall be by him invested in consolidated bank annuities or other public securities, and the dividends or income thereof shall, until parliament shall otherwise provide, be applied in the maintenance of the bridge or tunnel in respect whereof the same was paid, in such manner as the justices in quarter sessions having jurisdiction where such bridge or tunnel is situate shall order.

Scotland—application of monies paid.

**24.** That every sum so to be paid as last aforesaid in Scotland to such trustees or other persons as aforesaid shall be by them paid into bank, and the interest to arise thereon shall, until parliament shall otherwise provide, be applied in the maintenance of the bridge or tunnel in respect whereof the same was paid, in such manner as the sheriff of the county in which such bridge or tunnel is situate, in case of any difficulty arising, shall direct.

Compensation to be settled by arbitration, pursuant to Railways Clauses Acts.

Claims to be made within six months after publication of warrant.

**25.** That the amount of the compensation so to be made in the several cases aforesaid shall be determined, in case of difference, by arbitration, in the manner provided by the Railways Clauses Consolidation Act, 1845 (*n*), or the Railways Clauses Consolidation Act (Scotland), 1845, as the case may require, and for that purpose all the clauses of the said Railways Clauses Consolidation Acts with respect to the settlement of disputes by arbitration shall be deemed to be incorporated with this act: Provided always, that no such railway company shall be liable to make any compensation in respect

(*n*) 8 & 9 Vict. c. 20, ante, p. 127.

of damage alleged to have been sustained by reason of the abandonment of the railway or part of the railway, or the non-completion of any contract of such company in any of the cases aforesaid, unless the claim for such compensation shall have been made within six months after the publication in the Gazette of the notice of the warrant for such abandonment as hereinbefore provided.

Company liable for damage by entry on lands, pursuant to Lands Clauses Acts

**26** Provided also, and be it enacted, That the authority so as aforesaid given for abandoning the making of any such railway or part of a railway shall not prejudice or affect the right of the owner or occupier of any lands to receive from such company compensation for any damage that may have been occasioned by the entry of such company upon such lands, for the purpose of surveying and taking levels, and of probing or boring to ascertain the nature of the soil, or of setting out the line of the railway, pursuant to the provisions for that purpose in the Lands Clauses Consolidation Act, 1845 (*o*) and the Lands Clauses Consolidation Act (Scotland), 1845, contained.

Lands purchased by the railway company to be sold within a limited time.

**27.** That all the lands acquired by such company for the purposes of the railway or part of railway so authorized to be abandoned shall be sold by such company within the time limited or prescribed for that purpose in the warrant authorizing the abandonment of such railway, and if no time be therein prescribed for that purpose, then within two years from the date of such warrant, in the manner prescribed by the said Lands Clauses Consolidation Acts with respect to the sale of superfluous lands*; and for that purpose all the clauses of the said last-mentioned acts with respect to the lands acquired by the promoters of the undertaking under the provisions of their special act, but which are not required for the purposes thereof, shall be deemed to be incorporated with this act: Provided always, that the offer to be made by the railway company pursuant to the said acts to sell such lands to the person entitled to the lands from which the same were severed shall be made at a price or sum not greater than the price or sum at which such lands were purchased by such company.

* Page 91, ante.

Where part of a railway is authorized to be abandoned, may require the capital to be reduced.

**28.** That when the said commissioners of railways (*p*), by any such warrant as aforesaid, authorize the abandonment of a part only of the railway of any railway company, they may, if they think fit, require that the capital authorized to be raised by such company in respect of such railway shall be reduced to such extent and in such manner as the said commissioners think fit, and so that such reduction do not bear a greater proportion to the whole capital so authorized to be raised than the cost of the part of the railway so authorized to be abandoned, would have borne to the cost of the whole railway; and they may also, if they think fit, in like manner reduce the amount which such company are authorized to borrow on mortgage or bond, and every such reduction shall be expressed in the said warrant: and in every such case the capital of such company and their power of borrowing money shall be reduced and limited in conformity with the directions for that purpose contained in such warrant: and such company shall have all the same powers for enforcing the payment of calls in respect of the shares in the capital when reduced in the manner required by the said commissioners, and for enforcing the forfeiture of any such shares in default of payment of such calls, as such company would have had in respect of the original capital of such company if this act had not been passed: Provided always, that nothing herein contained, shall authorize the said company to reduce or interfere with any amount of capital paid up or called for before the eleventh day of February, 1850, and entitled to any preferential or guaranteed dividend or interest.

(*o*) 8 & 9 Vict. c. 18, s. 84, ante, p. 79. (*p*) Now Board of Trade, see p. 166, post.

**29.** That after the granting of any such warrant as aforesaid for the abandonment of the whole railway of any railway company the powers of such company for the construction, maintenance and management of such railway shall cease, and such company shall continue to exist only for the purpose of winding up their affairs (*q*).

After warrant for abandonment of the whole railway the powers of the company are to cease, except for winding up

[*Sect. 30, by which* 11 & 12 *Vict. c.* 45, *and* 12 & 13 *Vict. c.* 108, *were applied to cases where the order of winding up was made before the passing of those acts; sect.* 31, *by which shareholders might petition for winding up under* 11 & 12 *Vict. c.* 45, *when a warrant had been granted for abandonment of the whole railway: and sects.* 32 & 33 *by which the Court of Session in Scotland might sequestrate a railway company for the abandonment of which a warrant had been granted and establish rules for adjustment of claims, are repealed by* 32 & 33 *Vict. c.* 114, *s.* 110. *See now Railway Companies Act* 1867 (30 & 31 *Vict. c.* 126), *s.* 31, *and the Abandonment of Railways Act,* 1869 (32 & 33 *Vict. c.* 114), *s.* 3.]

**34.** That in the event of the affairs of any such company being wound up under any such petition, the compensation hereinbefore directed to be given to the owners and occupiers of lands and others in respect of the damage sustained by them by reason of such abandonment in the cases hereinbefore mentioned, or by reason of the non-completion of any such contract as aforesaid, or otherwise, shall be deemed a demand claimed from and when ascertained in the manner provided by this act, a debt due from such company, and the party by whom such compensation is claimed shall be deemed a "creditor" in England or Ireland, within the provisions of the said Joint Stock Companies Winding-up Act, or, in Scotland, within the provisions of the said recited act of the second and third years of the reign of her present Majesty; and in case any lands purchased by such railway company shall be sold by the official manager under the said act, they shall be sold in the manner and subject to the provisions contained in this act.

In case of petition for winding up, landowners are to be deemed creditors in respect of the compensation given by this act.

**35.** Provided always, and be it enacted, That this act, or any proceeding thereunder, shall not prejudice or affect (*r*), any action, suit or other proceeding against a company which shall not have obtained a warrant authorizing the abandonment of the railway or part of a railway in respect of which such action, suit or other proceeding shall be instituted, unless such company shall, within three days after notice for that purpose from the party suing them, give such party notice of their intention to apply for such warrant and shall obtain the same and serve notice thereof on such party within three calendar months thereafter, but all such actions and suits and other proceedings shall be proceeded with, and judgments recovered, and rules, orders and decrees made therein shall be enforced, as if this act had not been passed, save only that the same, after notice given by the company of their intention to abandon as aforesaid, shall be suspended for three calendar months, if the warrant be refused, or be not obtained, within that time.

Saving for actions commenced before warrant of abandonment.

**36.** Provided always, and be it enacted, That nothing in this act contained shall extend or be construed to extend to authorize the abandonment by any company of any railway or portion of a railway, or other works, which such company has agreed under its corporate seal to make and construct, according to any agreement entered into either with any individual or with any other company, unless such individual or company shall consent in writing to such abandonment.

Saving for special agreement to construct railway.

(*q*) The rest of this section, which provided for the collection of the company's property, its distribution among the shareholders, &c., is repealed by 32 & 33 Vict. c. 114, s. 10.

(*r*) Saving words for actions brought before date of act or amending act are omitted.

Report to Parliament.

**37.** That in each case in which the said commissioners authorize the abandonment of the whole or a portion of a railway, they shall, within ten days after issuing their warrant for that purpose, if Parliament be then sitting, or if not, then as soon thereafter as Parliament meets, lay before both Houses of Parliament a copy of every such warrant, accompanied by such report and observations as shall in the judgment of such commissioners set forth and explain the reasons for their award and warrant in every such case as aforesaid.

Interpretation of terms.

**38.** That the following words and expressions in this act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number:

Words importing the masculine gender shall extend to females:

The word "person" shall include body corporate:

The word "lands" shall include messuages, tenements and hereditaments;

The word "railway" shall include all works, buildings and undertakings authorized to be constructed or carried on in connection with the railway or belonging thereto:

The word "shares" shall include stock:

The word "month" shall mean calendar month.

Short title

**39.** That in citing this act in other acts of Parliament, and in legal and other instruments and proceedings, it shall be sufficient to use the expression "The Abandonment of Railways Act, 1850."

SCHEDULE referred to by the foregoing Act.

| (1) Name of Railway. | (1.) Name of Shareholder. | (1.) No. and Amount of Shares or Stock held by him. | (2) Whether assenting or dissenting. |
|---|---|---|---|
| | | | |

(1.) The secretary will insert these particulars.
(2.) In this column the shareholder will write the word "assenting" or "dissenting as the case may be, and sign his name thereunder.

## 14 & 15 VICT. CAP. 49.

*An Act to repeal an Act of the Eleventh and Twelfth Years of her present Majesty, for making preliminary Inquiries in certain Cases of Applications for Local Acts, and to make other Provisions in lieu thereof.* [1st August, 1851.

[**1.** *Repeal of* 11 & 12 *Vict. c.* 129 *in pari materiâ.*]

Where works proposed on tidal lands, admiralty may require statements, &c.

**2.** Whenever application shall be made to Parliament for a bill whereby power is sought to construct any works on the shore of the sea, or of any creek, bay, arm of the sea, or navigable river communicating therewith, or

to construct any bridge, viaduct or other work across any creek, bay, arm of the sea or navigable river, or to construct any work affecting the navigation of any harbour, port, tidal water or navigable river, it shall be lawful for the lord high admiral, or for the lords commissioners for executing the office of lord high admiral (s), to require the promoters of such bill to deposit at the office of the admiralty, in addition to the plans, sections or other documents which may have been deposited at such office in compliance with the standing orders of either house of Parliament, all such statements and other documents as the said lord high admiral or lords commissioners shall deem necessary, to explain the objects of the intended application to Parliament, and the proposed interference with such tidal lands or navigation, as the case may be.

Admiralty may appoint inspectors.

**3.** It shall be lawful for the said lord high admiral or lords commissioners, if they shall consider the same necesssary or expedient, but not otherwise, to appoint a competent person or persons to be an inspector or inspectors, for the purpose of inquiring, in such manner and at such time and place as they shall direct, into all such matters as they shall deem necessary to enable them to report to Parliament their opinion upon every such bill touching the jurisdiction or authority of the lord high admiral.

Inspectors may summon witnesses,

and examine them upon oath.

**4.** For the purposes of such inquiry the said inspector or inspectors may, by summons under his or their hands, summon before him or them any person having the custody of any map, survey or book made or kept in pursuance of any act of Parliament, to produce such map, survey or book for his or their inspection, and the said inspector or inspectors may summon, in manner aforesaid, any other person whose evidence shall, in the judgment of the said inspector or inspectors, be material to his or their inquiries, and pay or allow to every such person so summoned by him or them the reasonable charges of his attendance; and the said inspector or inspectors shall also have power to administer an oath to all persons who may be examined by him or them touching the premises.

Penalty for non-attendance or refusing to answer questions.

**5.** Any person, being summoned by such inspector or inspectors, who, after the delivery to him of such summons as aforesaid, or of a copy thereof, shall wilfully neglect or refuse to attend in pursuance of such summons, or to produce such maps, surveys, books or other documents as he may be required to produce under the provisions hereinbefore contained, or to answer upon oath or otherwise such questions as may be put to him by such inspector or inspectors under the powers herein contained, shall be liable to forfeit and pay a penalty not exceeding five pounds, which may be recovered before any two or more justices having jurisdiction within the town, district or place wherein such inquiry shall be held; and on conviction of the offender, and in default of payment of any such penalty, such justices shall be empowered and required to cause the same to be levied by distress and sale of the goods and chattels of the offender, by warrant under their hands and seals; and such penalty shall be paid to the treasurer of the county within which such conviction shall take place in aid of the county rate; provided that no person, other than the promoters of the proposed act, or their agents, shall be required to attend in obedience to any summons, unless the reasonable charges of his attendance be paid or tendered to him, nor to travel in obedience thereto more than ten miles from his usual place of abode.

(s) By the Harbour Transfers Act, 1862 (25 & 26 Vict. c. 69), the Board of Trade may exercise the powers given by this act to the admiralty, and the powers of the admiralty cease except in cases where, upon information furnished to the admiralty by the Board of Trade, the admiralty "are of opinion that it is proper for them to take steps for the protection of her Majesty's naval service."

Admiralty may take security for payment of expenses of inquiry

**6.** Before instituting any such inquiry, the said lord high admiral or lords commissioners may, if they think fit, require and take such security for the payment of the whole or any part of the costs, charges, and expenses to be incurred by them in respect of such inquiry (including the remuneration of the inspectors) as to them shall seem fit; and whenever any such security is given, the costs, charges, and expenses in respect whereof it is given, shall, to such amount as shall be certified by the said lord high admiral or lords commissioners (not exceeding the extent or amount of such security), be a debt due to her Majesty from the person or persons respectively by whom the same is entered into.

Petitioners for bill to be deemed the promoters

**7.** The persons whose names shall be subscribed to the petition for any private bill shall be deemed to be promoters of such bill for all the purposes of this act, notwithstanding the persons subscribing such petition shall have signed for or on behalf of any other party.

Short title.

**8.** In citing this Act in other acts of parliament, and in legal and other instruments, it shall be sufficient to use the expression, "The Preliminary Inquiries Act, 1851."

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## 14 & 15 VICT. CAP. 64.

*An Act to repeal the Act for constituting Commissioners of Railways.* [7th August, 1851.

9 & 10 Vict. c. 105.

Whereas an act was passed in the session holden in the ninth and tenth years of her Majesty (chapter one hundred and five), for constituting commissioners of railways: and whereas it is expedient that the said act should be repealed, and provision be made for the exercise and performance of the powers and duties which since the passing of the said act have been vested in or imposed on the said commissioners: Be it enacted by (&c., &c.):

Powers, &c., of commissioners of railways transferred to Board of Trade.

**1.** From and after 10th October, 1851, the said act shall be repealed, and all powers, rights, authorities and duties vested in or exercised or performed by the commissioners of railways under any act passed since the passing of the said recited act, or which may be passed during the present session of Parliament, shall be transferred to and vested in and performed by the Lords of the Committee of her Majesty's Privy Council for Trade and Foreign Plantations as if they had been named in such acts instead of the said commissioners: and all proceedings pending before the said commissioners on the said tenth of October, or carried on under their authority, shall be continued and carried on by and before the lords of the said committee, who shall have, exercise, and perform the same powers, rights. authorities, and duties in respect of all such proceedings as might have been exercised or performed by such commissioners in case this act had not been passed.

Power to continue officers appointed by commissioners of railways.

**2.** It shall be lawful for the lords of the said committee, with the approval of the commissioners of her Majesty's treasury, to continue, for the transaction of the business transferred to the lords of the said committee under this act, all or any of the officers and servants appointed by the said commissioners of railways, and from time to time, with such approval, to remove such officers and servants, or any of them.

Appointments, orders, &c., of the Board of Trade, how to be signified.

**3.** Where by any act relating to railways or to any railway the commissioners of railways or the lords of the said committee are empowered or required to make or issue any appointment, authority, determination, order, requisition, regulation, certificate, or notice or to do any other act, the

lords of the said committee may, after the said tenth of October, signify such appointment, authority, determination, order, requisition, regulation, certificate, notice, or other act by a written or printed document, signed by one of the joint secretaries of the lords of the said committee, or by some assistant secretary, or other officer appointed by them to sign documents relating to railways; and every appointment, authority, determination, order, requisition, regulation, certificate, notice or other act, signified by a written or printed document purporting to be so signed as aforesaid, shall be deemed to have been duly made, issued, or done by the lords of the said committee; and every such document shall be received in evidence in all courts and before all justices and others, without proof of the authority or signature of such secretary or other officer, or other proof whatsoever, until it be shown that such document was not signed by the authority of the lords of the said committee.

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## 14 & 15 VICT. CAP. 70.

*An Act to alter and amend certain Provisions of the Lands Clauses Consolidation Act, 1845 (t), so far as relates to Ireland.* [7th August, 1851.

Whereas, on account of circumstances connected with the tenure of land in Ireland, the provisions of the Lands Clauses Consolidation Act, 1845, are found to be unsuited to the existing condition of that country, and it is expedient that some provision should be made for ascertaining the purchase-money or compensation to be paid by railway companies in Ireland for the lands required for their undertakings, and for determining differences with respect to the works to be made and maintained by such companies for the accommodation of the owners and occupiers of lands adjoining such railways: Be it therefore enacted by (&c., &c.):

**1.** In citing this act in other acts of Parliament, legal instruments, proceedings at law or in equity, and all other instruments and proceedings whatsoever, it shall be sufficient to use the expression "The Railways Act (Ireland), 1851." *Short title.*

**2.** This act shall apply to every railway in Ireland authorized to be made by any act passed in this session of parliament, or which shall hereafter be passed, and which shall authorize the purchase or taking of lands for such railway, and also to every railway or portion of a railway in Ireland by any act heretofore passed authorized to be made in relation to which the compulsory powers for taking lands are still in force, and this act shall be incorporated with and form part of the acts authorizing the said undertakings: Provided always, that this act shall not apply to the railways authorized to be made by "The Waterford and Limerick Railway Amendment Act, 1850," "The Dublin and Drogheda Railway Act, 1850," The Dundalk and Enniskillen Railway Act, 1850," and "The Midland Great Western Railway of Ireland (Deviation and Amendment) Act, 1850," "The Waterford and Limerick Railway Deviation Act, 1851," and "The Killarney Junction Railway Act, 1851," "The Longford Line and Liffy Branch, 13 & 14 Vict.," or to which the provisions of such acts respectively

*Act to apply to railways in Ireland now and heretofore authorized, except 13 & 14 Vict. c. 29, 13 & 14 Vict. c. 45, 13 & 14 Vict. c. 76, 13 & 14 Vict. c. 88, 14 & 15 Vict. c. 110, 13 & 14 Vict. c. 103.*

(t) 8 & 9 Vict. c. 18, ante, p. 61; and see 23 & 24 Vict. c. 97; 27 & 28 Vict. c. 71, and 31 & 32 Vict. c. 70, post.

are applicable, and shall not in anywise interfere with or affect the provisions of such acts.

Purchase of lands otherwise than by agreement.

3. The clauses of "The Lands Clauses Consolidation Act, 1845," with respect to the purchase and taking of lands otherwise than by agreement, except sections sixteen and seventeen of the said act, shall not be applicable or in force with respect to any railway or portion of a railway in Ireland to which this act applies.

Maps, schedules, and estimates to be prepared by company.

4. When and so often as any company authorized to make a railway to which this act applies shall require to purchase or take any lands which they are by the special act authorized to purchase or take, the company shall cause to be made out, and to be signed by their engineer and secretary, maps or plans and schedules of the lands so required (and for the purchase of which lands, or of all the several interests in which lands, the company shall not have contracted), and also of the works which the company propose to make and maintain for the accommodation of lands adjoining the railway (and for compensation in lieu of which the company shall not have contracted), together with the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the said lands respectively, so far as the same can be reasonably ascertained, with estimates of the gross annual value and the value in fee of such lands so required to be purchased or taken as aforesaid, and for the purchase of which, or of all the several interests in which, the company shall not have contracted, and the separate and distinct value of each such interest which the company shall not have contracted to purchase, so far as the same can be reasonably ascertained, (taking into consideration damage by severance, and any other matters by "The Lands Clauses Consolidation Act, 1845," required to be considered, if necessary): and every such map or plan shall be upon a scale of not less than one inch to every two hundred feet; and all lands, buildings, yards, and courtyards, and lands within the curtilage of any building and ground cultivated as a garden, shall be marked thereon with distinct numbers corresponding with the numbers marked upon the parliamentary plans of the railway, and shall have put thereon a distinct valuation to each number, and all bridges, roads and other works proposed to be made for the use and accommodation of the owners, lessees and occupiers of the lands adjoining the railway shall also be marked on the said maps or plans; and the company shall deposit such maps or plans, schedules and estimates, at the office of the commissioners of public works in Ireland, and a copy of such maps or plans, schedules and estimates, or so much thereof as relates to every county in or through which the railway is proposed to be made, with the clerk of the peace of each such county, and a copy of so much of the said maps or plans, schedules and estimates, as relates to each electoral division in which any such lands shall be situate, with the clerk of the poor law union in which every such electoral division is situate.

Deposit of maps, &c., with commissioners of public works, clerks of the peace, &c.

Commissioners to appoint an arbitrator, on application of company.

5. After such deposit at the office of the said commissioners as aforesaid, it shall be lawful for the said commissioners, upon the application of the company, to appoint an arbitrator between the company and the persons interested in the lands to which such maps or plans, schedules and estimates relate, and such arbitrator shall, in relation to the lands required and the works to be made and maintained by the company, as herein mentioned, be the arbitrator under this act; and if any such arbitrator die, or refuse, decline, or become incapable to act; the said commissioners may appoint an arbitrator in his place, who shall have the same powers and authorities as the arbitrator first appointed.

Arbitrator may call for documents, and administer oaths.

6. The arbitrator may call for the production of any documents in the possession or power of the company, or of any party making any claim under the provisions of this act, which such arbitrator may think necessary

for determining any question or matter to be determined by him under this act, and may examine any such party and his witnesses, and the witnesses for the company, on oath, and administer the oaths necessary for that purpose.

Declaration by arbitrator

7 Before any arbitrator shall enter upon any inquiry, he shall, in the presence of a justice of the peace, make and subscribe the following declaration; that is to say,

"I *A. B.*, do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the act [*naming this act.*]

"Made and subscribed in the presence of ." "A. B."

And such declaration shall be annexed to the award when made; and if any arbitrator, having made such declaration, wilfully act contrary thereto, he shall be guilty of a misdemeanor.

Maps, &c., to be delivered to arbitrator. Notice of appointment of arbitrator, &c., to be published.

8. Upon the first appointment of an arbitrator as aforesaid, the said commissioners shall deliver to such arbitrator the maps or plans, schedules and estimates, deposited at their office as hereinbefore required; and the company shall forthwith after such appointment publish notice of such appointment, and of such deposits as hereinbefore directed, with such clerk of the peace and clerks of poor law unions as aforesaid, once in the Dublin Gazette, and once in each of three successive weeks in some one and the same newspaper circulated in the county in which the lands are situate, stating the times and places of such deposits, and requiring all persons claiming to have any right to or interest in the lands required for the purposes of the railway, and specified in such maps or plans, or to have compensation for any injury to any lands injuriously affected by the execution of the works of the company, or to have any works made by the company for the accommodation of lands adjoining the railway, to deliver to the arbitrator on or before a day fixed by the arbitrator, and named in such notice (and which day shall not be earlier than *thirty-one* (*u*) days from the date of the insertion of the last of such newspaper notices), a short statement in writing of the nature of such claim; and upon the appointment of any arbitrator in the place of an arbitrator dying, or refusing, declining or becoming incapable to act, all the documents relating to the matter of the arbitration which were in the possession of such arbitrator shall be delivered to the arbitrator appointed in his place, and the company shall publish notice of such appointment in the Dublin Gazette.

Arbitrator to adjudicate upon compensation for lands and upon accommodation works.

9. The arbitrator shall, after the expiration of the period within which such claims are required to be delivered to him as aforesaid, proceed to inquire into and adjudicate upon the value of the lands required for the purposes of the railway, and specified in such maps or plans, and the several interests in such lands, in respect of which no agreement shall have been come to between the company and the persons entitled thereto, and the purchase-money to be paid for such lands, and the compensation to be paid for injury to any lands injuriously affected by the execution of the works of the company, and to inquire and determine what works should be made and maintained by the company for the accommodation of lands adjoining the railway; and the arbitrator shall, after due inquiry and examination, frame a draft award setting forth the price or compensation to be paid by the company in respect of the several interests in the lands so required and specified or injuriously affected, and the works to be made

(*u*) Twenty-one—23 & 24 Vict. c. 97, s. 1, post.

and maintained by the company for the accommodation of lands adjoining the railway; and where any inquiry relates not only to the value of the lands to be purchased, but also to compensation claimed for injury done or to be done to any lands held therewith, the arbitrator shall award separate and distinct sums to be paid for the purchase of such lands, or of any interest therein to which the inquiry may relate, and for the damage (if any) to be sustained by reason of the severing of the lands taken from the other lands, or otherwise injuriously affecting such other lands by the exercise of the powers of the company; and such draft award, and copies thereof, or of so much thereof as relates to lands in the respective counties and electoral divisions, shall be deposited as hereinbefore directed concerning the said maps or plans, schedules and estimates, and copies thereof, or of so much thereof as aforesaid; and the arbitrator shall cause notice of such award to be given to all persons entitled to payment or compensation under the same, or who shall have been heard before such arbitrator as claimants for compensation, and also shall cause notice to be published as hereinbefore directed concerning notice of the deposit of copies of the said maps or plans, schedules and estimates, or so much thereof as aforesaid, of the deposit of copies of such draft award, or of so much thereof as aforesaid, and shall in such notices appoint a time and place, or times and places, for holding a meeting or meetings to hear objections against such draft award (the first such meeting to be not earlier than *twenty-one* (x) days after the last day of publication of the said notice), and shall hold such meeting or meetings accordingly, and thereat hear and determine any objections which may then and there be made to such draft award by any person interested therein, or adjourn the further hearing thereof, if the arbitrator see fit, to a future meeting, and may take any measures which he may deem proper for ascertaining the value of any such lands or interests as aforesaid, or the justice or propriety of any other matter of such draft award, and may from time to time, if he see occasion, appoint and hold further meetings for hearing and determining objections to such draft award, of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed; and when the arbitrator has heard and determined all such objections, and made such inquiries as he may think necessary in relation thereto, and made such alterations (if any) as he may deem proper in the draft award, he shall make his award under his hand and seal accordingly; and every such award shall be binding and conclusive, subject to the provisions concerning traverse hereinafter contained, upon all persons whomsoever; and no such award shall be set aside for irregularity in matter of form; and every such award and copies thereof, or of so much thereof as relates to lands in the respective counties and electoral divisions, shall be deposited as hereinbefore directed with respect to the said maps or plans, schedules and estimates, and copies thereof, or of so much thereof as aforesaid; and the company shall thereupon publish notice, as hereinbefore directed concerning notice of the deposit of copies of such maps or plans, schedules and estimates, or of so much thereof as aforesaid, of the deposit of copies of such award, or of so much thereof as aforesaid, and requiring all persons claiming to have any right to or interest in the lands, the price or compensation to be paid in respect of which is ascertained by such award, to deliver to the company, on or before a day to be named in such notice (such day not being earlier than thirty-one days from the date of the last publication of the notice), a short statement in writing of the nature of

(x) Fourteen—23 & 24 Vict. c. 97, s. 1, *post*.

such claim, and a short abstract of the title on which the same is founded: and such statement and abstract shall be paid for by the company.

Separate awards may be made as to lands in the several parishes or otherwise.

**10.** Provided always, that the arbitrator may make several awards, so as to include in a separate award the lands in each electoral division, or such portion of the lands in relation to which he is arbitrator as, having reference to the deposits to be made under this act, the meetings to be holden and the inquiries to be made in relation to such lands, and the convenience of the parties interested in the matter of the arbitration, he may think fit.

Clerks of the peace, &c., to take charge of documents deposited.

**11.** Every clerk of the peace and clerk of any union is hereby required to retain the documents to be deposited with him under this act in his custody, and to permit all persons interested to inspect the same, and to make copies and extracts of and from the same, in like manner, and upon the like terms, and under the like penalty for default, as is provided by an act of the session holden in the seventh year of King William the Fourth and the first year of her Majesty, chapter eighty-three (*y*).

Expenses of the arbitrator to be borne by the company.

**12.** The salary or remuneration, travelling and other expenses of the arbitrator, and all costs, charges and expenses (if any) which shall be incurred by the said commissioners of public works in carrying the provisions of this act into execution shall be paid by the company; and the amount of such costs, charges and expenses shall from time to time be certified by the said commissioners, after first hearing any objections that may be made to the reasonableness of any such costs, charges and expenses by or on behalf of the company; and it shall be lawful for the said commissioners from time to time to require the company to deposit in the Bank of Ireland, to the credit of the said commissioners, any sum or sums of money, or to give such other security for the payment of any such costs, charges and expenses as to the said commissioners shall seem fit; and every certificate of the said commissioners, certifying the amount of such costs, charges and expenses, shall be taken as proof in all proceedings at law or in equity of the amount of such respective costs, charges and expenses, and the amount so certified shall be a debt due from the company to the crown, and shall be recoverable accordingly.

Costs of parties.

**13.** It shall be lawful for the arbitrator, where he thinks fit, upon the request of any party by whom any claim has been made before him, to certify the amount of the costs properly incurred by such party in relation to the arbitration, and the amount of the costs so certified shall be paid by the company; and if within seven days after demand the amount so certified be not paid to the party entitled to receive the same, such amount shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly; but no such certificate shall be given where the arbitrator has awarded the same or a less sum than has been offered by the company in respect of such claim before the commencement of the arbitration.

Certificates of amount of compensation to be delivered by company.

**14.** Within thirty days from the delivery of such statement and abstract as aforesaid to the company, the company shall, where it appears to them that any person so claiming is absolutely entitled to the lands, estate or interest claimed by him, deliver to such person, on demand, a certificate under the company's seal, stating the amount of the price or compensation to which he is entitled under the said award; and where more lands than are included in one number shall be claimed by the same person, such lands, or the interests therein, may be included in one certificate, if the company think fit, such certificates to be prepared by and at the costs of the company; and where any agreement has been entered into in respect

(*y*) Ante, p. 1.

to the value of the interest of any person in any lands, or his right to compensation, the company may, where it appears to them that such person is absolutely entitled, deliver to such person a like certificate.

Amount mentioned in certificates to be paid to parties on demand, &c

**15.** The company shall, on demand, pay to the party to whom any such certificate is given, or otherwise as herein provided in the cases hereinafter mentioned, the amount of monies specified to be payable by such certificate to the party to whom or in whose favour such certificate is given, his or her executors, administrators or assigns; and if the company wilfully make default in such payment as aforesaid, then the party named in such certificate shall be entitled to enter up judgment against the company in the Court of Queen's Bench in Ireland for the amount of the sums specified in such certificate, in the same manner in all respects as if he had been, by warrant of attorney from the company, authorized to enter up judgment for the amount mentioned in the certificate, with costs, as is usual in like cases; and all monies payable under such certificates, or to be recovered by such judgments as aforesaid, shall at law or in equity be taken as personal estate as from the time of the company entering on any such lands as aforesaid.

When amount mentioned in certificates is paid to parties, company may take possession.

**16.** When and so soon as the company have paid to the party to whom any such certificate as aforesaid is given or otherwise as herein provided in the cases hereinafter mentioned, the amount specified to be payable by such certificate to the party to whom or in whose favour the certificate is given, his executors, administrators or assigns, it shall be lawful for the company, upon obtaining such receipt as hereinafter mentioned, from time to time to enter upon any lands in respect of which such certificate is given, and thenceforth to hold the same for the estate or interest in respect of which the amount specified in such certificate was payable.

Receipts duly stamped to operate as a conveyance.

**17.** In every case in which any monies are paid by any company under the provisions of this act, for such price or compensation as aforesaid, the party receiving such monies shall give to the company a receipt for the same, and such receipt shall have the effect of a grant, release, and conveyance of all the estate and interest of such party, and of all parties claiming under or through him, in the lands in respect of which such monies are paid, so as such receipt shall have an *ad valorem* stamp of the same amount impressed thereon in respect of the purchase-monies mentioned in such certificate (but exclusive of the amount of compensation for damage by severance or other injury) as would have been necessary if such receipt had been an actual conveyance of such estate or interest, every such receipt to be prepared by and at the costs of the company.

Payment of monies where claimants deemed not entitled, or are under disability.

**18.** If it appear to the company, from any such statement and abstract as aforesaid, or otherwise, that the party making any such claim as aforesaid is not absolutely entitled to the lands, estate, or interest in respect of which his claim is made, or is under any disability, or if the title to such lands, estate, or interest be not satisfactorily deduced to the company, then and in every such case the amount to be paid by the company in respect of such lands, estate or interest as aforesaid shall be paid and applied as provided by the clauses of "The Lands Clauses Consolidation Act, 1845," "with respect to the purchase-money or compensation coming to parties having limited interests, or prevented from treating, or not making title."

Where no claim made, or parties refuse to accept sum certified, money to be paid into the bank.

**19.** Where any person claiming any right or interest in any lands shall refuse to produce his title to the same, or where the company have taken possession of any lands under the provisions of this act in respect of the price or compensation whereof, or of any estate or interest wherein, no claim has been made within one year from the time of the company taking possession, or if any party to whom any such certificate has been given or

tendered refuse to receive such certificate, or to accept the amount therein specified as payable to him, then and in any such case the amount payable by the company in respect of such lands, estate or interest, or the amount specified in such certificate, shall be paid into the Bank of Ireland, in the name and with the privity of the Accountant-General of the Court of Chancery in Ireland, in manner provided by the last-mentioned clauses of "The Lands Clauses Consolidation Act, 1845," and the amount so paid into the said bank shall be accordingly dealt with as by the said act provided; and no monies paid into the bank under this act shall be liable to usher's poundage.

**20.** Nothing herein contained shall prevent the company from acquiring any further abstract or evidence of title respecting any lands included in any such award as aforesaid, in addition to the abstract or statement hereinbefore mentioned, if they think fit, so as the same be obtained at the costs of the company.

Company may require further evidence of title.

**21.** If from any reason whatever the company shall not deliver the certificate aforesaid to any party claiming to be entitled to any interest in any lands the possession whereof has been taken by the company as aforesaid, then the right to have a certificate according to the provisions of this act may, at the costs and charges of the company, be enforced by any party or parties, by application to the High Court of Chancery in Ireland in a summary way by petition, and all other rights and interests of any party or parties arising under the provisions of this act may be in like manner enforced against the company by such application as aforesaid.

Delivery of certificate may be enforced by Court of Chancery.

[Sects. 22—24: *Power to enter lands after deposit of draft award: deposit of money by company in Bank of Ireland: application of deposit by direction of court.* Repealed, 23 & 24 Vict. c. 97. See now, sects. 2—4 of that act, post.]

**25.** If at any time the company be unable, by reason of the closing of the office of the Accountant-General of the said Court of Chancery, to obtain his authority in respect of the payment of any sum of money so authorized to be deposited in the bank by way of security as aforesaid, it shall be lawful for the company to pay into the bank, to such credit as aforesaid (subject nevertheless to being dealt with as herein provided), such sum of money as the company shall by some writing signed by their secretary or solicitors for the time being, addressed to the governor and company of the bank in that behalf, request, and upon any such payment being made the cashier of the bank shall give a certificate thereof; and in every such case, within ten days after the re-opening of the said Accountant-General's office, the solicitor for the company shall there bespeak the direction for the payment of such sum into the name of the Accountant-General, and upon production of such direction at the Bank of Ireland the money so previously paid in shall be placed to the credit of the said Accountant-General accordingly, and the receipt for the said payment be given to the party making the same in the usual way, for the purpose of being filed at the report office.

Company may deposit money by way of security while the office of the Accountant-General is closed.

**26.** Where the party named in any certificate issued under the provisions hereinbefore contained of the amount of the price or compensation ascertained by any award under this act (or any party claiming under the party so named) shall be dissatisfied with the amount in such certificate certified to be payable, and where any party claiming any interest in any monies so paid into court as aforesaid shall be dissatisfied with the amount of the price or compensation in respect of which such monies shall

Parties dissatisfied with award may enter a traverse at assizes (y).

(y) See also 27 & 28 Vict. c. 71; 31 & 32 Vict. c. 70, post. And as to costs, see 23 & 24 Vict. c. 97, s. 7, post.

be so paid into court, and where any party interested in land adjoining any railway shall be dissatisfied with any award under this act so far as respects any works for the accommodation of such lands thereby awarded to be made and maintained by the company, or which such party may claim to have so made and maintained, it shall be lawful for such party, at the assizes for the county in which the lands are situate, or, where the lands are situate in the county of Dublin or county of the city of Dublin, in the term next following the giving of such certificate or the payment of such money into court, or (if the claim be only in respect of accommodation works) the making of the award, or where such assizes are holden or such term begins within less than twenty-one days after the giving of such certificate, or the payment of such money, or the making of the award, then at the next subsequent assizes, or in the next subsequent term (as the case may be), upon giving ten days' notice in writing previously to such assizes or term respectively to the secretary of the company, of the amount of the accommodation works intended to be claimed, to have a traverse for damages entered in the crown book in respect of such claim, and thereupon such traverse shall be tried in like manner, and like proceedings shall be had, and subject to like provisions, as far as the same can be applied, as in the case of traverses entered for damages under the acts for consolidating and amending the laws relating to the presentment of public monies by grand juries in Ireland; Provided always, that the sum to be awarded or allowed as the costs, charges and expenses of the trial of every such traverse for damages shall in no case exceed the sum of twenty pounds, and further that no party shall have any other remedy for the purpose of impeaching the amount of any price or compensation ascertained by any such award as aforesaid, or the sufficiency of the accommodation works awarded thereby, other than by means of such traverse as aforesaid, anything in any act to the contrary notwithstanding: Provided also, that the jury which shall try such traverse shall be sworn a true verdict to give, whether any and what damages will be sustained by the traverser, regard being had to the value of the lands of such traverser required, and to the injury to any lands of such traverser injuriously affected by the works of the company, or (as the case may be) as to what accommodation works ought to be made and maintained by the company for the accommodation of the lands of the traverser, or to the like effect respectively, as the case may be.

Verdict on traverse to have effect of judgment.

**27.** The entry of the verdict of the jury in case of each traverse in the crown book shall be a final decision, and binding upon all parties interested, and shall have the effect of a judgment at law obtained in the Court of Queen's Bench in Ireland against the company, and may be enforced by like remedies against the company, as in the case of a judgment at law, by all parties interested therein; and in each case where a certificate shall have been delivered, such damages shall be taken and recovered in lieu of the monies expressed to be payable by the certificate, and which shall, on payment of the damages, and any costs payable by the company, be delivered up to the said company, and such receipt for such damages shall be given as hereinbefore provided in cases of payment of monies on such certificates as aforesaid; and where such damages shall be given in respect of any land, the amount of the price or compensation in respect of which, as ascertained by an award under this act, shall have been paid into court, then if the amount of such damages shall be less than the amount paid into court, the company shall, on a summary application by petition, be entitled to receive the difference between the amount of such damages and the amount of the sum paid into court, but if the amount of such damages shall exceed the amount of monies paid into court, then the difference between the amount paid in and the damages shall, at the costs of the

company, be paid into court; and the payment of such difference into court, and the payment of any costs payable by the company in respect of such traverse, shall be a good discharge to the company on any such verdict in the nature of a judgment as aforesaid.

**28.** The provisions of this act shall extend to the purchase by the company of lands for extraordinary purposes. Purchase of lands for extraordinary purposes

**29.** All the provisions of "The Lands Clauses Consolidation Act, 1845," shall, subject to the provisions herein contained, extend to and be taken as part of this act, except so far as the same are inconsistent therewith. Incorporation of Lands Clauses Act.

**30.** In the construction of this act the words "the company" shall mean the company constituted by the special act. "The company."

**31.** This act shall extend to Ireland only. Act to extend to Ireland only.

**32.** Continuance of act for five years (z).

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## 17 & 18 VICT. CAP. 31.

*An Act for the better Regulation of the Traffic on Railways and Canals* (a). [10th July, 1854

Whereas it is expedient to make better provision for regulating the traffic on railways and canals: Be it enacted (&c. &c.) as follows:

**1.** In the construction of this act "the Board of Trade" shall mean the Lords of the Committee of her Majesty's Privy Council for Trade and Foreign Plantations: "Board of Trade."

The word "traffic" shall include not only passengers, and their luggage, and goods, animals and other things conveyed by any railway company or canal company, or railway and canal company, but also carriages, waggons, trucks, boats and vehicles of every description adapted for running or passing on the railway or canal of any such company: "Traffic."

The word "railway" shall include every station of or belonging to such railway used for the purposes of public traffic; and, "Railway."

The word "canal" shall include any navigation whereon tolls are levied by authority of Parliament, and also the wharves and landing places of and belonging to such canal or navigation, and used for the purposes of public traffic: "Canal."

The expression "railway company," "canal company" or "railway and canal company" shall include any person being the owner or lessee of or any contractor working any railway or canal, or navigation constructed or carried on under the powers of any act of Parliament: "Company.

A station, terminus or wharf shall be deemed to be near another station, terminus or wharf when the distance between such stations, termini or wharves shall not exceed one mile, such stations not being situate within five miles from St. Paul's Church in London. "Near."

(z) This act was continued by 19 & 20 Vict. c. 72, and 21 & 22 Vict. c. 84, and afterwards amended and made perpetual by 23 & 24 Vict. c. 97, post.

(a) This act was extended to cases in which a railway company works steam-vessels by 26 & 27 Vict. c. 92, s. 31, and 31 & 32 Vict. c. 119, s. 16, post. The administration of the 2nd section of the act was transferred to the railway commissioners by the Regulation of Railways Act, 1873 (36 & 37 Vict. c. 48), s. 6, and from the Railway Commissioners to the Railway and Canal Commission by the Railway and Canal Traffic Act, 1888, 51 & 52 Vict. c. 25, s. 8, post.

Facilities for traffic.

[See vol I. ch. XII., ss. 6-8.]

Undue preference.

Through traffic.

2. Every railway company, canal company and railway and canal company shall, according to their respective powers, afford all reasonable facilities for the receiving and forwarding and delivering of traffic upon and from the several railways and canals belonging to or worked by such companies respectively, and for the return of carriages, trucks, boats and other vehicles, and no such company shall make or give any undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever, nor shall any such company subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and every railway company and canal company and railway and canal company having or working railways or canals which form part of a continuous line of railway or canal or railway and canal communication, or which have the terminus, station or wharf of the one near the terminus, station or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding all the traffic arriving by one of such railways or canals by the other, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage, as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways or canals or railways and canals as a continuous line of communication, and so that all reasonable accommodation may, by means of the railways and canals of the several companies, be at all times afforded to the public in that behalf (*b*).

Jurisdiction of Court of Common Pleas.

3. It shall be lawful for any company or person complaining against any such companies or company of anything done, or of any omission made in violation or contravention of this act, to apply in a summary way, by motion or summons, in England, to her Majesty's Court of Common Pleas at Westminster, or in Ireland to any of her Majesty's superior courts in Dublin, or in Scotland to the Court of Session in Scotland, as the case may be, or to any judge of any such court; and upon the certificate of her Majesty's Attorney-General in England or Ireland or her Majesty's Lord Advocate in Scotland, of the Board of Trade, alleging any such violation or contravention of this act by any such companies or company, it shall also be lawful for the said Attorney-General or Lord Advocate to apply in like manner to any such court or judge, and in either of such cases it shall be lawful for such court or judge to hear and determine the matter of such complaint (*c*); and for that purpose, if such court or judge shall think fit, to direct and prosecute, in such mode and by such engineers, barristers or other persons as they shall think proper, all such inquiries as may be deemed necessary to enable such court or judge to form a just judgment on the matter of such complaint; and if it be made to appear to such court or judge, on such hearing, or on the report of any such person, that anything has been done or omission made in violation or contravention of this act, by such company or companies, it shall be lawful for such court or judge to issue a writ of injunction or interdict, restraining such company or companies from further continuing such violation or contravention of this act, and enjoining obedience to the same, and in case of disobedience of any such writ of injunction or interdict, it shall be lawful for such court or judge to order that a writ or writs of attachment, or any other process of such court incident or applicable to writs of injunction or interdict, shall issue against any one or more of the directors of any company, or against any owner, lessee, contractor or other person failing to obey such writ of injunction or interdict; and such court

Injunction.

Attachment.

Order for payment of 200*l*. a-day.

(*b*) Amended as to through rates, by s. 25 of the Railway and Canal Traffic Act, 1888, post.

(*c*) Suspended by the Act of 1873, 36 & 37 Vict. c. 48, s. 6, post, which Act is made perpetual by s. 47 of the Act of 1888.

or judge may also, if they or he shall think fit, make an order directing the payment, by one or more of such companies, of such sum of money as such court or judge shall determine, not exceeding for each company the sum of two hundred pounds for every day after a day to be named in the order, that such company or companies shall fail to obey such injunction or interdict, and such monies shall be payable as the court or judge may direct, either to the party complaining or into court, to abide the ultimate decision of the court, or to her Majesty, and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by decree or judgment in any superior court at Westminster or Dublin, in England or Ireland, and in Scotland by such diligence as is competent on an extracted decree of the Court of Session; and in any such proceeding as aforesaid, such court or judge may order and determine that all or any costs thereof or thereon incurred shall and may be paid by or to the one party or the other, as such court or judge shall think fit; and it shall be lawful for any such engineer, barrister or other person, if directed so to do by such court or judge, to receive evidence on oath relating to the matter of any such inquiry, and to administer such oath (*d*).

*Judges may make such regulations as may be necessary for proceedings under this act.*

**4.** *It shall be lawful for the said Court of Common Pleas at Westminster, or any three of the judges thereof, of whom the chief justice shall be one, and it shall be lawful for the said courts in Dublin, or any nine of the judges thereof, of whom the Lord Chancellor, the Master of the Rolls, the Lord Chief Justice of the Queen's Bench and Common Pleas and the Lord Chief Baron of the Exchequer shall be five, from time to time to make all such general rules and orders as to the forms of proceedings and process, and all other matters and things touching the practice and otherwise in carrying this act into execution before such courts and judges, as they may think fit, in England or Ireland; and in Scotland it shall be lawful for the Court of Session to make such acts of sederunt for the like purpose as they shall think fit (e).*

*Court or judge may order a rehearing.*

**5.** *Upon the application of any party aggrieved by the order made upon any such motion or summons as aforesaid, it shall be lawful for the court or judge by whom such order was made, to direct, if they think fit so to do, such motion or application on summons to be reheard before such court or judge, and upon such rehearing to rescind or vary such order (e).*

Mode of proceeding under this act.

**6.** No proceeding shall be taken for any violation or contravention of the above enactments, except in the manner herein provided; but nothing herein contained shall take away or diminish any rights, remedies or privileges of any person or company against any railway or canal or railway and canal company under the existing law.

Liability for negligence in carriage of goods.

[See vol. I. ch. XVI. s. 3.]

**7.** Every such company as aforesaid shall be liable for the loss of or for any injury done to any horses, cattle or other animals, or to any articles, goods or things in the receiving, forwarding or delivering thereof, occasioned by the neglect or default of such company or its servants, notwithstanding any notice, condition or declaration made and given by such company contrary thereto, or in anywise limiting such liability; every such notice, condition or declaration being hereby declared to be null and void:

Notice to the contrary void.

Special contracts valid if held reasonable.

Provided always, that nothing herein contained shall be construed to prevent the said companies from making such conditions with respect to the receiving, forwarding, and delivering of any of the said animals, articles, goods or things as shall be adjudged by the court or judge before whom

(*d*) The jurisdiction given by this section was transferred to the Railway Commissioners by the Act of 1873, 36 & 37 Vict. c. 48, s. 6, post, and to the Railway and Canal Traffic Commission by the Act of 1888, post.

(*e*) Suspended by Act of 1873, and repealed by Act of 1888.

Limited liability, where value not declared.

any question relating thereto shall be tried to be just and reasonable. Provided always, that no greater damages shall be recovered for the loss of or for any injury done to any of such animals, beyond the sums hereinafter mentioned; (that is to say,) for any horse, fifty pounds; for any neat cattle, per head, fifteen pounds; for any sheep or pigs, per head, two pounds; unless the person sending or delivering the same to such company shall, at the time of such delivery, have declared them to be respectively of higher value than as above mentioned, in which case it shall be lawful for such company to demand and receive, by way of compensation for the increased risk and care thereby occasioned, a reasonable per centage upon the excess of the value so declared above the respective sums so limited as aforesaid, and which shall be paid in addition to the ordinary rate of charge; and such per centage or increased rate of charge shall be notified in the manner prescribed in the statute eleventh George Fourth and first William Fourth, chapter sixty-eight (*f*), and shall be binding upon such company in the manner therein mentioned: Provided also, that the proof of the value of such animals, articles, goods and things, and the amount of the injury done thereto, shall in all cases lie upon the person claiming compensation for such loss or injury: Provided also, that no special contract between such company and any other parties respecting the receiving, forwarding or delivering of any animals, articles, goods or things as aforesaid, shall be binding upon or affect any such party unless the same be signed by him or by the person delivering such animals, articles, goods or things respectively for carriage: Provided also, that nothing herein contained shall alter or affect the rights, privileges or liabilities of any such company under the said act of the eleventh George Fourth and first William Fourth, chapter sixty-eight, with respect to articles of the descriptions mentioned in the said act.

Burden of proving value.

Special contract to be signed.

Saving for Carriers Act.

Short title.

**8.** This act may be cited for all purposes as "The Railway and Canal Traffic Act, 1854."

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## 17 & 18 VICT. CAP. 97.

*An Act to amend and extend the Acts for the Inclosure, Exchange, and Improvement of Land.* [10th August, 1854.

Application of compensation for common rights, paid under Lands Clauses Act.

**15.** Where any money shall have been or may hereafter be paid to a committee under "The Lands Clauses Consolidation Act, 1845," (*g*) or under any railway or other special act by which money may have been directed or authorized to be paid to a committee as compensation for the extinction of commonable or other rights, or for lands being common lands or in the nature thereof, the right to the soil of which may have belonged to the commoners, and the majority of such committee shall be of opinion that the provisions of such act for the apportionment thereof cannot be satisfactorily carried into effect, such majority may make application in writing to the commissioners to call a meeting of the persons interested in such compensation money to determine whether or not such compensation money shall be apportioned under the provisions of this act.

(*f*) See this Statute, ante, text, Ch. xvi., sect. 3.
(*g*) 8 & 9 Vict. c. 18, s. 101, ante.

Money to be paid into Bank of England.

**16.** If the majority in number and interest shall resolve that such compensation money shall be apportioned, the amount of such compensation money shall be forthwith paid into the Bnak of England to the credit of an account to be named by the Inclosure Commissioners for England and Wales; and the said committee shall be absolutely discharged from all liability in respect of such compensation money upon payment thereof into the Bank of England as hereinbefore directed.

Interest to be ascertained by commissioners.

**17.** As soon as the said monies shall have been paid into the bank as aforesaid the said inclosure commissioners, or any assistant commissioner appointed or to be appointed by them for that purpose, shall proceed to ascertain, determine, and award the names of the parties who were entitled to such estates, rights and interests in the said common and commonable lands, and the amount or value of their respective shares, rights and interests therein, and the proportionate amount of the price so to be paid as aforesaid for such estates, rights and interests to which each party so entitled as aforesaid is entitled in respect of his share, right or interest as aforesaid; and the award of the commissioners, under their common seal, or assistant commissioner in writing under his hand and seal, shall be binding on all parties claiming such estates, rights and interests as aforesaid; and for the purpose of ascertaining the rights and interests of such parties as aforesaid, it shall be lawful for the said inclosure commissioners, or assistant commissioner, to call such meetings as they or he shall think fit of all persons having or claiming any such rights or interests in the said common and commonable lands as aforesaid, at such time and place as the said commissioners or assistant commissioner shall think fit, so as the same shall be appointed by a public notice thereof in writing to be affixed at least twelve days before such meeting on the principal outer door of the parish church in which such land or any part is situate, and to be inserted in one of the public newspapers published or generally circulated in the county in which such land is situate; and at such meeting the said commissioners or assistant commissioner do and shall proceed to examine into and ascertain all and every the claims which shall be made or put forward in respect of any such rights or interests as aforesaid, and the relative and proportionate value of the estates, rights and interests of any person or persons claiming to be entitled thereto, and for that purpose do and may employ any valuer or surveyor, and call for and receive such records, deeds and writings, and such other proof or evidence as the said commissioners or assistant commissioner may think fit, and they and he are and is hereby authorized and required to take the testimony of any witnesses upon oath (which oath they and he are and is respectively hereby empowered to administer), or to take the affirmation of such witnesses in cases where affirmation is allowed by law instead of oath.

Meetings of commoners.

As to payment of costs of inclosure commissioners, and as to the residue of monies.

**18.** All the costs and expenses of the said inclosure commissioners and assistant commissioner, and of any valuer or surveyor employed by them or him under the provisions hereinbefore contained, shall in the first place be paid out of such compensation monies, and the residue of the said monies shall be paid and divided between and amongst the said several parties to be named in the said award, and in the shares and proportions to be ascertained and set forth in such award.

Compensation for limited interest to be paid to trustees.

**19.** When it shall appear to the commissioners or assistant commissioner that any of the parties entitled to such rights or interests are only entitled thereto for a limited interest, then it shall be lawful for them or him, by their or his award, to direct that the monies to be paid in respect of such right or interest, where the same shall exceed twenty pounds, shall be paid to the trustees acting under the will, conveyance or settlement under which such person having such limited interest shall be interested in such rights or interests, and where there are no trustees, then into the hands of trustees

to be appointed under the hands and seal of the commissioners, to be held by them on trusts similar to the uses or trusts to which such rights or interests had been immediately before the payment of such monies into the Bank subject to or as near thereto as the said commissioners or assistant commissioner can ascertain, and the receipts of any trustees to whom any such monies shall be paid as aforesaid shall be good and sufficient discharges for the same: Provided always, that the payment of all such sums shall from time to time be subject to such rules and regulations for the purpose of ensuring the payment thereof to the person or persons duly entitled to receive the same as the said commissioners shall by any order direct.

As to sums payable in respect of lands not exceeding 20*l*.

**20.** In all cases where the sum payable by virtue of such award in respect of any estate, right or interest shall not exceed twenty pounds, and the person entitled to estate, right or interest shall be under any disability or incapacity, such sum shall and may be paid to the guardian, committee or husband of such person, and where any such person shall have a limited interest only in such estate, right or interest, the whole of such sum shall and may nevertheless be paid to the person having such limited interest, to his or her guardian, committee or husband, as the case may be.

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## 18 & 19 VICT. CAP. 122.

*An Act to amend the Laws relating to the Construction of Buildings in the Metropolis and its Neighbourhood.*

[14th August, 1855.

### Part I.

*Regulation and Supervision of Buildings.*

**6.** The following buildings and works shall be exempt from the operation of the first part of this act: [*inter alia*] the buildings belonging to any canal, dock or railway company (*h*), and used for the purposes of such canal, dock or railway under the provisions of any act of Parliament.

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## 20 & 21 VICT. CAP. 31.

*An Act to amend and explain the Inclosure Acts.*

[10th August, 1857.

Exchanges of lands by railway and other companies.

**4.** For the purposes of removing all doubts as to the power of companies incorporated by special act of Parliament for the making and maintaining of any railway, canal, docks, harbour, waterworks or other work, to exchange land belonging to such companies under the provisions of the said acts: be it declared and enacted, That every such company shall be deemed to be a person interested within the meaning of "The Acts for the Inclosure, Exchange and Improvement of Land," for the purpose of exchanging land belonging to the said company, and that notwithstanding the provisions in

(*h*) See *North Kent R. Co.* v. *Badger*, 27 L. J. (M. C.) 106.

any act of Parliament relating to such company, specially limiting the purposes to which such land belonging to the said company shall be applicable.

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## 21 & 22 VICT. CAP. 75.

*An Act to amend the Law relating to Cheap Trains, and to restrain the Exercise of certain Powers by Canal Companies being also Railway Companies.* [2nd August, 1858.

Whereas by the act 7 & 8 Vict. c. 85, s. 6,* it is enacted, amongst other things, with respect to the cheap trains thereby required to be provided in certain cases, that the fare or charge for each third-class passenger by any such train shall not exceed one penny for each mile travelled: And whereas it is expedient to amend the said act in manner hereinafter mentioned: And whereas it is also expedient to amend the act passed in the ninth year of the reign of her present Majesty, chapter forty-two, intituled "An Act to enable Canal Companies to become Carriers of Goods upon their Canals," by restraining, as hereinafter mentioned, the exercise of certain powers therein contained: Be it enacted, by (&c. &c.), as follows:— Page 27.

**1.** *When the distance travelled by any third-class passenger by any train run in compliance with the provisions relating to cheap trains contained in the said act of the seventh and eighth of Victoria, chapter eighty-five, is a portion of a mile, and does not amount to one mile, the fare for such portion of a mile may be one penny, or when such distance amounts to one mile, or two or more miles, and a portion of another mile, the fare or charge for such portion of a mile, if the same amounts to or exceeds one half mile, may be one halfpenny: Provided always, that for children of three years and upwards, but under twelve years of age, the fare or charge shall not exceed half the charge for an adult passenger.* Repealed, except as to Ireland, by Cheap Trains, 1883, 46 & 47 Vict. c. 34, post. *Fractions of a mile.*

**2.** *After the passing of this act, no fare heretofore charged to or received from any third-class passenger by any such train as aforesaid shall in any proceeding to be hereafter instituted be deemed to have exceeded the rate prescribed in such case by the said act 7 & 8 Vict. c. 85, if the same shall not have exceeded the rate of one farthing for each entire quarter of a mile travelled.* Repealed, similarly to s. 1. *Certain rates not to be deemed excessive.*

**3.** Notwithstanding anything contained in the said recited act of the ninth year of her Majesty, it shall not be lawful for any canal or navigation company, being also a railway company, or entitled to work any railway constructed under the authority of any act of Parliament, hereafter to accept a lease of the whole or any part of the undertaking of any other railway and canal company or of any canal or navigation company, or of the tolls, dues or charges upon or in respect of the whole or any part of any such undertaking, except under the powers of some act or acts heretofore passed or to be hereafter passed in which the parties to any such lease shall be specifically named and authorized to enter into the same. Canal companies being also railway companies, not to take leases of canals unless specially authorized.

**4.** [Act to be in force for one year (*i*).]

(*i*) Made perpetual by 23 & 24 Vict. c. 41.

## 21 & 22 VICT. CAP. 78.

*An Act to enable the Committees of both Houses of Parliament to administer Oaths to Witnesses in certain Cases.*

[2nd August, 1858.

Power to select committees to administer oaths.

Whereas it is expedient that the evidence taken before the committees of either House of Parliament on a private bill should be available, if desired, before the committee of the other House to which the same bill is referred, and that for this purpose the committees of the House of Commons on private bills should be enabled to administer an oath to the witnesses examined before them; and it is also expedient, for the convenience of the House of Lords, that the committees of that House should be enabled to administer an oath to the witnesses examined before them, instead of such witnesses being as heretofore sworn at the bar of the House: Be it enacted, by (&c. &c.), as follows:—

House of Commons.

**1.** Any select committee of the House of Commons to which any private bill has been referred by the House may examine witnesses upon oath upon matters relating to such bill, and for that purpose may administer an oath to any such witness.

House of Lords.

**2.** Any committee of the House of Lords may administer an oath to the witnesses examined before such committee.

False evidence, perjury.

**3.** Any person examined as aforesaid who shall wilfully give false evidence shall be liable to the penalties of perjury.

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## 22 & 23 VICT. CAP. 59.

*An Act to enable Railway Companies to settle their Differences with other Companies by Arbitration.* [13th August, 1859.

For the better providing for the settlement by arbitration of matters in which railway companies in the United Kingdom are mutually interested (*k*): Be it enacted, by (&c. &c.), as follows; (that is to say,)

Short title. "Railway Companies."

**1.** This act may for all purposes be cited as "Railway Companies Arbitration Act, 1859;" and the expression "railway companies" in this act extends to and includes all persons being the owners or lessees of, and all contractors working any railway upon which steam power is used.

Power for railway companies to refer matters to arbitration.

**2.** Any two or more railway companies, whether already or hereafter incorporated (in this act called "the companies"), from time to time, by writing under their respective common seals, may agree to refer and may refer to arbitration, in accordance with this act, any then existing or future differences, questions, or other matters whatsoever in which they then are or thereafter shall be mutually interested, and which they might lawfully settle or dispose of by agreement between themselves, and may delegate to the person or persons to whom the reference is made any power to determine all or any of the terms of any contract to be made between the companies which the directors of the companies respectively might lawfully delegate to any committees of themselves respectively.

(*k*) See further 36 & 37 Vict. c. 48, s. 8; and 37 & 38 Vict. c. 40, s. 6, post.

3. The companies jointly, but not otherwise, from time to time, by writing under their respective common seals, may add to, alter, or revoke any agreement for reference in accordance with this act theretofore entered into between the companies, or any of the terms, conditions, or stipulations thereof.

Power to alter or revoke agreements for reference.

4. Every reference or agreement in accordance with this act, except so far as it is from time to time revoked or modified in accordance with this act, shall bind the companies, and may and shall be carried into full effect.

Agreements to be carried into effect.

5. Where the companies agree, the reference shall be made to a single arbitrator.

Reference to a single arbitrator.

6. Except where the companies agree that the reference shall be made to a single arbitrator, the reference shall be made as follows; to wit,

Reference to two or more arbitrators

Where there are two companies the reference shall be made to two arbitrators:

Where there are three or more companies the reference shall be made to so many arbitrators as there are companies.

7. Where there are to be two or more arbitrators, every company shall by writing under their common seal appoint one of the arbitrators, and shall give notice in writing thereof to the other company or companies.

Appointment of arbitrators by companies.

8. Where there are to be two or more arbitrators, if any of the companies fail to appoint an arbitrator within fourteen days after being thereunto requested in writing by the other company, or by the other companies or any of them, then, on the application of the companies or any of them, the Board of Trade, instead of the company so failing to appoint an arbitrator, may appoint an arbitrator; and the arbitrator so appointed shall for the purposes of this act be deemed to be appointed by the company so failing.

Appointment of arbitrators by Board of Trade.

9. When the reference is made to two or more arbitrators, if before the matters referred to them are determined any arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as arbitrator, the company by which he was appointed shall by writing under their common seal appoint an arbitrator in his place.

Appointment of arbitrators by companies to supply vacancies.

10. Where the company by which an arbitrator ought to be appointed in the place of the arbitrator so deceased, incapable, unfit, or failing to act, fail to make the appointment within fourteen days after being thereunto requested in writing by the other company, or by the other companies or any of them, then, on the application of the companies or any of them, the Board of Trade may appoint an arbitrator; and the arbitrator so appointed by the Board of Trade shall for the purposes of this act be deemed to be appointed by the company so failing.

Appointment of arbitrators by Board of Trade to supply vacancies.

11. When any appointment of an arbitrator is made, the company making the appointment shall have no power to revoke the appointment, without the previous consent in writing of the other company or every other company in writing under their common seal.

Appointment of arbitrator not revocable.

12. Where two or more arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands an impartial and qualified person to be their umpire.

Appointment of umpire by arbitrators.

13. If the arbitrators do not appoint an umpire within seven days after the reference is made to the arbitrators, then, on the application of the companies, or any of them, the Board of Trade may appoint an umpire; and the umpire so appointed shall for the purposes of this act be deemed to be appointed by the arbitrators.

Appointment of umpire by Board of Trade.

14. Where two or more arbitrators are appointed, if before the matters referred to them are determined their umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as umpire, the arbitrators

Appointment of umpire by arbitrators to supply vacancy.

shall by writing under their hands appoint an impartial and qualified person to be their umpire in his place.

Appointment of umpire by Board of Trade to supply vacancy.

**15.** If the arbitrators fail to appoint an umpire within seven days after notice in writing to them of the decease, incapacity, unfitness, or failure to act of their umpire, then, on the application of the companies, or any of them, the Board of Trade may appoint an umpire; and the umpire so appointed shall for the purposes of this act be deemed to be appointed by the arbitrators so failing.

Succeeding arbitrators and umpires to have powers of predecessors.

**16.** Every arbitrator appointed in the place of a preceding arbitrator, and every umpire appointed in the place of a preceding umpire, shall respectively have the like powers and authorities as his respective predecessor.

Reference to umpire.

**17.** Where there are two or more arbitrators, if they do not, within such a time as the companies agree on, or failing such agreement, within thirty days next after the reference is made to the arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their umpire.

Power for arbitrators, &c., to call for books &c., and administer oath (*l*).

**18.** The arbitrator, and the arbitrators, and the umpire respectively may call for the production of any documents or evidence in the possession or power of the companies respectively, or which they respectively can produce, and which the arbitrator, or the arbitrators, or the umpire shall think necessary for determining the matters referred, and may examine the witnesses of the companies respectively on oath, and may administer the requisite oath; and in Scotland may grant diligence for the recovery of the documents or evidence, and for citing witnesses, and on application to the lord ordinary he may issue letters of supplement or other necessary writs in support of the diligence.

Procedure in the arbitration.

**19.** Except where and as the companies otherwise agree, the arbitrator, and the arbitrators, and the umpire respectively may proceed in the business of the reference in such manner as he and they respectively shall think fit.

Arbitration may proceed in absence of companies.

**20.** The arbitrator, and the arbitrators, and the umpire respectively may proceed in the absence of all or any of the companies in every case in which, after giving notice in that behalf to the companies respectively, the arbitrator, or the arbitrators, or the umpire shall think fit so to proceed.

Several awards may be made.

**21.** The arbitrator, and the arbitrators, and the umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred; and every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or in the event of no time having been so specified, for any time which the arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding the other matters or any of them be not then or thereafter awarded on.

Awards made in due time to bind all parties.

**22.** The award of the arbitrator, or of the arbitrators, or of the umpire, if made in writing under his or their respective hand or hands, and ready to be delivered to the companies within such a time as the companies agree on, or, failing such agreement, within thirty days next after the matters in difference are referred to (as the case may be) the arbitrator, or the arbitrators, or the umpire, shall be binding and conclusive on all the companies.

(*l*) This and the remaining sections of the act apply to arbitrators appointed by the Board of Trade, notwithstanding that one of the parties is not a railway company, 31 & 32 Vict. c. 119, s. 32, *post*.

**23.** Provided always, that (except where and as the companies otherwise agree) the umpire, from time to time by writing under his hand, may extend the period within which his award is to be made; and if it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

Power for umpire to extend period for making his award

**24.** No award made on any arbitration in accordance with this act shall be set aside for any irregularity or informality.

Awards not to be set aside for informality.

**25.** Except only so far as the companies bound by any award in accordance with this act from time to time otherwise agree, all things by every award in accordance with this act lawfully required to be done, omitted, or suffered shall be done, omitted, or suffered accordingly.

Awards to be obeyed

**26.** Full effect shall be given by all the superior courts of law and equity in the United Kingdom, according to their respective jurisdiction, and by the companies respectively and otherwise, to all agreements, references, arbitrations and awards in accordance with this act; and the performance or observance thereof may, where the courts think fit, be compelled by distress infinite on the property of the companies respectively, or by any other process against the companies respectively or their respective property, that the courts or any judge thereof shall direct, and where requisite frame for the purpose.

Agreements, arbitrations and awards to have effect.

**27.** Except where and as the companies otherwise agree, the costs of and attending the arbitration and the award shall be in the discretion of the arbitrator, and the arbitrators, and the umpire respectively.

Costs of arbitration and award.

**28.** Except where and as the companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the companies in equal shares, and in other respects the companies shall bear their own respective costs.

Payment of costs.

**29.** The submission to any arbitration in accordance with this act may at any time be made a rule of any of her Majesty's Superior Courts of Record at Westminster, or, as the case may be, at Dublin, on the application of any party interested; and the court may remit the matter to the arbitrator, or to the arbitrators, or to the umpire, with any directions the court think fit.

Submission to arbitration to be made a rule of court.

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## 23 & 24 VICT. CAP. 14.

*An Act for granting to Her Majesty Duties on Profits arising from Property, Professions, Trades and Offices.* [3rd April, 1860.

**5.** No assessment shall be made under this act by the commissioners for general purposes in respect of the annual value or profits and gains arising from any railway, but in lieu thereof every such assessment shall be made by the commissioners for special purposes, and upon the value or profits and gains for the year ending the fifth day of April, 1860, and the said last-mentioned commissioners shall notify the assessment to the secretary or other officer of the company upon which the same shall be made, and the amount of such assessment shall be paid, collected and levied in like manner as any other assessment made by the said commissioners for special purposes.

Commissioners for special purposes to assess railways.

**6.** In like manner as aforesaid, the commissioners for special purposes shall assess the duties payable under schedule (E.) in respect of all offices

Assessment of persons employed by railway companies.

and employments of profit held in or under any railway company (*m*), and shall notify to the secretary or other officer of such company the particulars thereof, and the said assessment shall be deemed to be and shall be an assessment upon the company, and paid, collected and levied accordingly; and it shall be lawful for the company, or such secretary or other officer, to deduct and retain out of the fees, emoluments or salary of each such officer or person the duty so charged in respect of his profits and gains.

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## 23 VICT. CAP. XXIX.

*An Act for more effectually carrying out the Clearing House System in Ireland, and for facilitating legal Proceedings in relation thereto* (*n*). [15th May, 1860.

Whereas for some time past arrangements have subsisted between several railway, canal, and steam packet companies and public carriers in Ireland for facilitating the transmission of the through traffic in passengers, animals, minerals, goods, and all other descriptions of traffic passing over and upon railways, canals, and steam packets belonging to different companies, for the purpose of affording in respect to such passengers, animals, minerals, goods, and such other traffic, the same or the like facilities of through booking and charges, and otherwise, as if such railways, canals, and steam packets had belonged to one company, and for the settlement of the accounts of the receipts for through traffic in which two or more companies or parties are interested, and of the accounts arising out of the use by a company or other party of the carrying stock belonging to other companies or parties, and for the audit and adjustment of such traffic accounts of companies or parties as may be submitted to the clearing house for that purpose, which arrangements are conducted under the control and superintendence of a committee appointed by the several railway, canal, and steam packet and other companies, and persons who are parties thereto, which committee is in this act designated "the committee," and the business of such committee has heretofore been and is now carried on under the name or style of the Irish Railway Clearing House (hereinafter designated "the clearing house") in Dawson Street in the city of Dublin: And whereas the aforesaid arrangements have been productive of great convenience to the public and to the parties thereto, and a considerable saving of expense in the transmission of passengers, animals, minerals, goods, and other traffic over and upon the railways, canals, and steam packets belonging to such parties: And whereas difficulties have arisen in carrying the objects of the clearing house into effect in consequence of the committee not possessing the power of prosecuting or defending actions or suits, or

(*m*) Persons employed by a railway company at weekly wages are not persons holding public employments, &c., within the third rule of Schedule (E.), and the company is not liable to be assessed in respect of such servants. But it would seem that such persons, if their income amount to 100*l.* a year, are liable to be assessed under Schedule (D.). *Attorney-General* v. *Lancashire and Yorkshire R. Co.*, 33 L. J., Ex. 163.

(*n*) The English Clearing House Act is 13 & 14 Vict. c. xxxiii, ante, p. 150. Most of the formal sections are either quite or nearly identical. But there is this important difference between the two acts —that whereas the English act applies to railway companies only, the Irish act applies to "railways, canal and steam packet companies and public carriers." See the preamble.

taking other legal proceedings, and it is therefore expedient to remove such difficulties, and to extend and improve the clearing house system and the proceedings connected therewith; but the purposes aforesaid cannot be effected without the authority of parliament: May it therefore please your Majesty that it may be enacted; and be it enacted, by (&c. &c.) as follows:

Parties to the clearing house to be subject to the provisions of this act.

1. The several companies, corporations, partnerships, and persons who at the time of the passing of this act are parties to the clearing house shall be subject to the provisions of this act, and all such companies, corporations, partnerships, and persons as shall respectively become, in manner hereinafter mentioned, parties to the clearing house, shall be subject to the like provisions: (that is to say,) every other company, corporation, partnership, and person who now is or are or hereafter may be engaged, or is or are or may be empowered to be engaged, either solely or in conjunction with any other business, in the business of carrying passengers, animals, minerals, goods, and moveable chattels and effects of whatever kind, or any of them, by land and water, or by land or by water, to or from any part or parts of Ireland, and all persons who shall be engaged in any such carrying business as aforesaid as lessees of or contractors with any such company, corporation, partnership, or person.

Other parties may join with assent of committee.

2. If any company, corporation, partnership, or person who may not be a party to the clearing house shall, by writing sealed with the common seal of any such company or corporation, or under the hand of any such partnership or person, request the committee to be admitted a party to the clearing house, and the committee shall assent to such request, such company, corporation, partnership, or person shall from the time of such assent being given, or at such other time as may be specified in the said request, become a party to the clearing house.

Parties may retire on giving notice.

3. If any party to the clearing house shall desire to retire therefrom, or cease to be a party thereto, and shall give notice thereof in writing to the committee, such party shall, at the expiration of three calendar months from the time when such notice shall be given, or if a more distant time shall be stated in such notice, then at the time so stated, cease to be a party to the clearing house: Provided always, that such notice shall, in the case of a company or corporation, be sealed with the common seal of such company or corporation, and in the case of a partnership, to be under the hands of at least two co-partners: Provided also, that such party shall have paid and discharged all sums due by such party to the committee.

Committee may give parties notice to retire.

4. If not less than two-thirds of the committee present at a meeting specially summoned shall, by writing signed by their secretary or by two members of the committee, give notice to any company, corporation, partnership or person that they or he, as the case may be, shall cease to be a party to the clearing house at a time named in such notice, not being less than one calendar month from the time of giving such notice, such company, corporation, partnership or person shall, at the time so named, cease to be a party to the clearing house.

Appointment of the committee.

5. Subject to the provisions hereinafter contained the committee shall consist of delegates appointed by parties to the clearing house only, and shall be composed in the manner following: (that is to say), each company or corporation shall appoint a delegate being a director of such company or member of such corporation, each partnership shall appoint one of its members to be a delegate, and each person may appoint himself or another as a delegate, such appointment, in the case of a company or corporation, to be under seal, and in the case of a partnership, to be under the hands of at least two co-partners, and in the case of a person, to be under the hand and seal of such person: Provided always, that any such delegate may

represent two or more parties on the committee, but shall in no case have more than one vote: Provided also, that the acts of the committee shall be valid and binding, notwithstanding the absence of any such delegate, or that any company, corporation, partnership or person may happen to be unrepresented at any meeting of the committee.

Parties hereafter admitted may be represented on the committee.

6. No company, corporation, partnership or person hereafter admitted a party to the clearing house shall be entitled to be represented on the committee by a delegate, unless the written request to be so admitted shall specify that the party applicant desires to be so represented, and shall specify the mode in which such delegate is to be from time to time appointed and removed, and unless the committee accept this mode of appointment or removal as a proper one; and the mode so specified for appointing any such delegate shall not be altered without the consent of the committee.

Evidence of appointment.

7. No person claiming to be a member of the committee under an appointment made after the passing of this act shall be or shall be entitled to act as a member thereof until the committee have resolved that they are satisfied that such member has been duly appointed, and the decision of the committee that such member is duly appointed shall not only be evidence of such due appointment, but shall, until the committee otherwise order, make such person to be a member of the committee, though in fact he is not duly appointed.

Committee.

8. Members of the committee which at the time of the passing of this act carries on business under the name or style of the Irish Railway Clearing House (in this act designated "the clearing house") in Dawson Street, in the city of Dublin, shall, without any further appointment, be members of the committee under this act.

Meetings of the committee, quorum, &c.

9. The committee shall meet once a month, and at any other times whereof the secretary shall, at the written request of the chairman for the time being or any two members of the committee, give at least ten days' notice in writing to every company, corporation, partnership and person who may be parties to the clearing house, or to the secretary of every such company and corporation, and every such meeting may be adjourned from time to time as the committee shall think fit; and meetings and adjourned meetings of the committee shall be held at the offices of the clearing house in Dawson Street aforesaid, except when the committee shall have appointed some other place, and then at such other place; and in order to constitute a meeting of the committee there shall be present at least three members, including the chairman; and, except where otherwise provided, all questions at every meeting shall be determined by the majority of votes of the committee present, and in case of an equal division of votes the chairman of the meeting shall have a casting vote in addition to his vote as one of the committee; and notice of the business to be brought before any meeting shall, at least three days before the day of such meeting if the meeting be an ordinary one, and at least ten days before the day of such meeting if it be a special one, be given to every company, corporation, partnership and person who are parties to the clearing house, or the secretary of every such company and corporation.

Appointment of the chairman.

10. Until the first meeting of the committee which shall be held after the passing of this act, Sir Edward McDonnel, or other the chairman of the committee for the time being, shall continue in office; and at the first meeting of the committee which shall be held after the passing of this act, and at the meeting to be held in the month of January in each succeeding year, the members of the committee present at the meeting shall, if they think fit, either continue in office the chairman for the time being, or choose another chairman; and a general meeting of the committee specially

summoned shall have power to remove any chairman: and if any chairman shall die or resign or be removed, the committee shall have power as soon as may be to choose some other person to fill the vacancy thereby occasioned, but every chairman elected to supply a vacancy other than at the meeting in the month of January in any year shall continue in office so long only as the person in whose place he shall be so elected would have been entitled to continue if such death, resignation or removal had not happened: Provided always, that it shall not be necessary that the person chosen as chairman be a delegate of any of the companies, corporations, partnerships or persons parties to the clearing house, but in case he shall not be a delegate he shall not be entitled to vote on any question, unless in the case of an equality of votes, when he shall be entitled to give the casting vote.

In the absence of the chairman committee to elect a chairman.

**11.** If at any meeting of the committee the chairman shall not be present the members of the committee present shall choose one of their number to be chairman of such meeting.

Sub-committee and meetings thereof.

**12.** The committee may appoint sub-committees consisting of such number of members of the committee as they think fit, and shall fix the quorum of such sub-committees, and may grant to such sub-committees power to do any acts relating to the affairs of the clearing house which the committee could lawfully do, and may from time to time think proper to entrust to them; and all questions at any meeting of the sub-committees shall be determined by a majority of the votes of members present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as a member of such sub-committee: Provided always, that the acts, minutes and proceedings of the sub-committees shall from time to time be submitted to the committee, but all such acts, minutes and proceedings shall be held to be valid, and shall take effect, unless and until they are overruled by the committee.

Chairman of sub-committee.

**13.** At every meeting of any such sub-committee the members thereof present shall appoint one of their number to be chairman of such meeting, who shall be entitled to give one vote as an ordinary member, and in case of an equality of votes shall be entitled to give another vote as the casting vote.

Appointment of secretary.

**14** James Waller Elwin shall be the secretary to the committee until his death or resignation or removal, whichever shall first happen, and the committee shall have the power to remove him and all future secretaries, and in the event of the resignation or death or removal as aforesaid of any secretary the committee shall appoint a secretary in his stead.

As to monies received by committee.

**15.** Any money which shall be received by the committee shall be held by them as trustees for the party or parties to whom the committee shall decide such money to be payable, but no member of the committee shall be answerable for any such money as may be lost or withheld by reason of any cause other than his own personal misconduct.

Accounts to be settled and balance ascertained and declared by the committee.

**16.** The accounts of the clearing house, and the balances due to and from the several parties thereto, shall be settled and adjusted by the secretary to the committee for the time being, which secretary shall also settle and determine the amount to be from time to time contributed to the funds of the clearing house by the parties thereto; and in case of any difference respecting such accounts, the decision of the committee to the effect that any balance or sum is payable by any company, corporation, partnership or person, then or theretofore party to the clearing house, shall be final and conclusive; and so long as any such balance or sum which the committee shall decide to be payable by any party, or any part thereof, shall not be paid, interest shall accrue and be paid on the same at such rate per centum per annum, not exceeding seven pounds per centum, as the committee shall from time to time determine, and such sum or balance, with interest thereon as aforesaid, shall be a debt due to the committee.

Interest on balances in arrear.

Expenses to be paid out of the funds of the clearing house.

17. The committee shall, out of the funds of the clearing house, pay all the expenses of the clearing house, and all costs, charges, damages and expenses which the members of the committee or sub-committee, or any or either of them, as such members or member, or which the secretary as nominal plaintiff or defendant, or other party on behalf of the committee, may bear, sustain or be put to; and the members of the committee and secretary shall be completely indemnified and saved harmless out of the funds of the clearing house, and by the parties thereto, of, from and against all actions, suits and proceedings of any sort, costs, charges, damages and expenses to which they or any of them may in any way be subjected as members or member of the committee, or as secretary to the committee, by reason of anything which they or he may bonâ fide do or omit to do, whether such deed or omission be within their powers or not.

Committee may sue for balances or sums due.

18. The committee may, by action of debt in the name of their secretary, in any court of competent jurisdiction in Dublin, Westminster or Edinburgh, as the case may be, recover from any company, corporation, partnership or person any balance or sum, with interest thereon, not exceeding the rate of seven pounds per centum per annum, which the committee shall decide to be payable by such company, corporation, partnership, or person, whether to any other company, corporation, partnership or person, or on account of the clearing house, and whether such company, corporation, partnership or person be still at the time of such decision or has then ceased to be a party to the clearing house, and whether such sum or balance and interest shall or shall not have been previously ascertained by the secretary to be payable.

Proof in case of plea of never indebted.

19. If in any action brought according to this act the defendants shall plead that they never were indebted, or any plea in substance amounting to a denial that the defendants ever were indebted, the plaintiff shall, on issue joined on such plea, be entitled to a verdict, upon proof that the committee decided the sum in question to be payable by the defendants, and that the defendants were either at the time of such decision or at some previous time a party to the clearing house, and in the latter case, upon further proof that such sum was decided to be payable in respect of some transactions, matters, or expenses which happened or were sustained while the defendants were parties to the clearing house.

Plea.

20. The defendants in such action may plead any matter showing that they have, since the time of the decision, discharged the sum or balance and interest so decided to be payable, but shall not plead any plea denying the plaintiff to be secretary.

Evidence in support of summons, rule or action.

21. In support of any action under this act, it shall not be necessary, as part of the opening case, for the applicant or plaintiff to prove otherwise than as hereafter mentioned that the members of the committee were duly appointed, or that the meeting was duly instituted or holden, or that the proceedings were regular, but it shall be sufficient as primâ facie evidence of those facts respectively to prove that the decision or resolution in question was made at a meeting purporting to be a meeting of the committee.

Parties to the clearing house estopped from denying that they are such parties, or repudiating accounts.

22. On the trial of any action under this act any company, corporation, partnership or person who may have acted as a party to the clearing house, shall, upon proof thereof, be estopped from contending that at the time when they so acted they were not a party thereto, and they shall also be precluded from repudiating any accounts adjusted by or authorized to be adjusted by the committee, or the acts of their respective delegates during the time such delegate was a member of the committee.

Entries in books.

23. The committee shall cause notes, minutes or copies, as the case may require, of all appointments made or contracts entered into by them, and of the orders and proceedings of all their meetings, to be duly entered in

books to be kept by them for that purpose; and every such entry shall be signed by the chairman of the meeting at which such appointments, contracts, orders or proceedings respectively took place, who shall add the word "chairman" to his signature, and which entries may be made and signed either at or after the meetings to which they respectively relate; and every entry purporting to be so signed shall be received as evidence in all courts, and before all judges, justices and others, without proof of such respective meetings having been duly convened or held, or of the persons making or entering such orders or proceedings being members of the committee, or of the signature of such chairman, or of the fact of his having been chairman, all which last-mentioned matters shall be presumed till the contrary be proved.

**24.** On the trial of any such action, after it is proved to the satisfaction of the court or judge trying the cause that such company, corporation, partnership or person is or had once been a party to the clearing house, the books kept by the committee shall be primâ facie evidence of the truth of the matters therein stated and contained, and such books and all entries therein may be proved by copies, and a certificate that any writing is such a copy subscribed to or endorsed on such writing, and purporting to be signed by the chairman or secretary of the committee, shall be sufficient proof that such writing is a true copy, without proof of the signature or of the official character of the person who signs it, and such copy shall have the same effect in evidence as the originals respectively would have had; and the secretary, although the nominal plaintiff, and the members of the committee, shall be competent witnesses either for the plaintiff or for the defendants.

Books of the committee, or certified copies thereof, to be primâ facie evidence, and the committee and secretary to be competent witnesses.

**25.** The committee to the clearing house may in all cases sue and be sued in the name of the secretary to the committee; and in all proceedings at law and in equity, and in bankruptcy or insolvency, or of any other sort, whether civil or criminal, the name of the secretary may be used instead of the names of the members of the committee and of the parties to the clearing house, and proofs in cases of bankruptcy, insolvency or winding-up affairs may be made by the said secretary.

Suits to be in the name of the secretary to the committee.

**26.** In any indictment or information for any felony or misdemeanor, wherein it shall be necessary to state the ownership of any property whatsoever, whether real or personal, and the same shall either belong to the committee, or be in their custody, or in the custody or possession of any officer, clerk or servant to the committee, or of any person employed for the purpose or in the capacity of clerk or servant by the committee, or in or on any building or land used for the purposes of the clearing house, or shall be used or intended to be used for the purposes of the clearing house, it shall be sufficient to state such property to belong to the secretary of the committee.

In criminal proceedings property of committee to be deemed the property of secretary.

**27.** In any indictment for embezzlement wherein it shall be necessary to state the party charged with the embezzlement to have been the clerk or servant of some master or masters, or to have been employed for the purpose or in the capacity of clerk or servant by some master or masters, and such masters shall have been the committee, it shall be sufficient in such indictment to name the secretary of the committee in every place in such indictment where the names of the members of the committee would but for this enactment be required to be inserted.

Criminal proceedings to be prosecuted in the name of secretary.

**28.** Every notice or requisition on the business of the clearing house, or given pursuant to this act, shall be sufficient if it be in writing, signed by the secretary of the committee or by the secretary or other officer of the company, corporation, or by the partnership or person giving the same, and if it be sent by the general post addressed to the secretary of the company

Service of notices.

or corporation, or to the partnership or person for whom the same is intended, or to the secretary, at the office of the clearing house, in case such notice or requisition be intended for the committee; and proof of such notice or requisition being deposited in any public letter box or receiving house for letters intended to be forwarded by the general post shall be deemed proof of the due service of such notice or requisition; and notices or requisitions for each member of the committee shall be sufficient if sent in manner aforesaid addressed to him at his private residence, or at the principal office of the company or corporation, or the place of business of the partnership or person whom he represents.

Service of writs, &c.

**29.** Every writ, summons, intimation or other document in and about all legal proceedings in the name of the secretary to the committee pursuant to this act against any company, corporation, partnership or person who shall be or shall have been a party to the clearing house may be served or given, as the case may be, by forwarding the same by post in a registered letter from the chief post office in Dublin, addressed in the case of a company or corporation to the secretary thereof at the principal office of such company or corporation, and in the case of all other parties to such parties at their respective places of business, and proof of such writ, summons, intimation or other document having been so forwarded shall be deemed proof of the due service thereof.

Description of parties to the clearing house and committee in legal proceedings.

**30.** In all pleadings or proceedings, civil or criminal, it shall be sufficient to mention the companies, corporations, partnerships and persons who are parties to the clearing house by the description of "the parties to the clearing house mentioned in the Clearing Act (Ireland), 1860," and to describe the committee by the description of "the clearing house committee mentioned in the Clearing Act (Ireland), 1860," instead of stating the names of the individual parties and members.

Description of the secretary in legal proceedings.

**31.** In all cases where the name of the secretary to the committee shall be used under the authority of this act it shall be sufficient to name and describe him, and to state the authority for using his name.

Actions, &c., not to abate on death or removal or resignation of secretary.

**32.** Upon the death or removal or resignation of any secretary no action or suit, or other proceeding pending in his name as plaintiff or defendant, or otherwise, either on behalf of or against the committee, shall abate or be stayed, but as soon as another secretary shall be appointed the name of such new secretary shall be thereinafter used, and in an action at law such name shall, whether before or after judgment, be introduced by suggestion, to which no plea or demurrer shall be allowed, and the omission to make such suggestion, and an erroneous suggestion, shall be mere irregularities, and shall, on the application of the committee, or of the party opposed to the committee, be rectified, but shall not otherwise be taken advantage of.

Power to committee to arbitrate on questions referred to them, or to appoint arbitrators.

**33.** All such companies, corporations, partnerships and persons as are mentioned in the first section of this act, whether parties to the clearing house or not, may agree to refer and may refer to the arbitration of the committee or the said sub-committee, or any arbitrators and umpire to be chosen by or out of the committee, any existing or future differences, questions or other matters whatsoever in which any such companies, corporations, partnerships and persons then are or thereafter shall be mutually interested, and which they might settle or dispose of between themselves, and may delegate to the committee or the said sub-committee, or to the arbitrators and umpire to be chosen by or out of the committee, as the case may be, power to determine all or any of the terms of any contract to be made between the parties to any such reference; and all the powers conferred on railway companies by "The Railway Companies Arbitration Act, 1859," may be exercised by and shall in reference to this act be held to apply to and include all such parties as aforesaid; and all the provisions of

the said "Railway Companies Arbitration Act, 1859," with respect to the appointment of arbitrators and umpire, either in the first instance, or to supply vacancies occasioned by death, incapacity, unfitness or failure to act, and whether by the companies or by the Board of Trade, and the powers of arbitrators and umpire, and the proceedings in the arbitration, may be exercised by or in reference to the committee and the said sub-committee, and arbitrators and umpire to be chosen by or out of the committee, as the case may be, on behalf of any such parties as aforesaid; and all the provisions of the last-mentioned act with respect to awards and the costs of the arbitration and awards shall be held applicable to and shall apply to any references to and awards to be made by the committee or the said sub-committee, or any arbitrators or umpire to be chosen by or out of the committee.

**34.** The submission to any arbitration in accordance with this act may at any time be made a rule of one of her Majesty's Superior Courts of Record at Dublin on the application of any party interested, and the court may remit the matter to the committee or the said sub-committee, or any arbitrator or arbitrators to be chosen by or out of the committee, with any direction the court think fit. Submission to arbitration may be made rule of court.

**35.** All the costs, charges and expenses of obtaining and passing this act, or incident thereto, shall be paid by the committee out of such monies as shall come to their hands after the passing of this act, or shall be in their hands at the time of the passing thereof. Expenses of act.

**36.** This act shall be called "The Clearing Act (Ireland), 1860," and shall be deemed to be a public act, and as such shall be judicially noticed. Short title. Public act.

## 23 & 24 VICT. CAP. 97.

*An Act for amending and making perpetual the Railways Act (Ireland), 1851* (o). [13th August, 1860.

Whereas it is expedient that "The Railways Act (Ireland), 1851," * should be amended as hereinafter provided, and that with such amendments the said act should be made perpetual: Be it therefore enacted, by (&c., &c.), as follows: * Page 167.

**1.** The words "twenty-one" shall be substituted for the words "thirty-one" in the eighth section of the said act, and the word "fourteen" shall be substituted for the word "twenty-one" in the ninth section of the same act. Periods of notices shortened.

**2.** The twenty-second section of the said act is hereby repealed; and in lieu thereof be it enacted, that when the company are desirous, for the purposes of their works, of entering upon any lands before they would be entitled to enter thereon under the provisions in the said act, as amended by this act, it shall be lawful for the company, at any time after the arbitrator shall have framed his draft award, upon depositing in the Bank of Ireland as herein directed such sum or sums as the arbitrator may certify to be in his opinion the proper amount to be so deposited in respect of any lands authorized to be purchased or taken by the company, and mentioned in such draft award, or of the several interests in such lands in respect of which no agreement shall have been come to between the company and the After deposit of draft award company may, upon deposit of such amount as arbitrator may think fit, enter on lands.

(o) See also 27 & 28 Vict. c. 71; 31 & 32 Vict. c. 70, post.

persons entitled thereto, to enter upon and use such lands for the purpose of the railway and works of the company; and the arbitrator shall, upon the request of the company, at any time after he shall have framed such draft award, certify under his hand the sum or sums which in his opinion should be so deposited by the company in respect of any lands mentioned in such draft award, or of any such interests therein as aforesaid, before they enter upon or use the same as aforesaid, and the sum or sums to be so certified shall be the sum or sums set forth in such draft award as payable by the company in respect of such lands or of such interests in such lands in respect of which no agreement shall have been come to between the company and the persons entitled thereto, or such greater amounts as to the arbitrator under the circumstances of the case shall seem proper; and notwithstanding such entry as aforesaid, all proceedings for and in relation to the completion of the said award, the delivery of certificates, and other proceedings under the said act as amended by this act, and under this act, shall be had and payments made as if such entry and deposit had not been made: Provided that the company shall, where they enter upon any lands by virtue of this present provision, pay interest at the rate of five pounds per centum per annum upon the purchase and compensation money payable by them in respect of any lands so entered upon from the time of their entry until the time of the payment of such purchase-money and compensation to the person entitled thereto, or where, under the provisions of the said act as amended by this act, such purchase-money or compensation is required to be paid into the said bank, then until the same with such interest is paid into such bank accordingly; and where under this provision interest is payable on any purchase or compensation money, the certificate to be delivered by the company in respect thereof shall specify that interest is so payable, and the same shall be recoverable in like manner as the principal money mentioned in such certificate.

Mode of deposit.

**3.** The twenty-third section of the said act is hereby repealed: and in lieu thereof be it enacted, that the sum or sums to be deposited as aforesaid in respect of any lands or any interest in any lands shall be paid into the Bank of Ireland in the name and with the privity of the Accountant-General of the Court of Chancery in Ireland, to be placed to his account there, to the credit of the company (describing the company by its proper name), in the matter of "The Railways Act (Ireland), 1851," and of the respective owners of the lands or of the interests in lands in respect of which the same is or are paid as aforesaid, subject to the control or disposition of the said court, and upon such deposit the cashier of the said bank shall give to the company, or the party paying in such money by their direction, a receipt for the same.

Deposit to remain as a security, and to be applied under direction of the Court of Chancery.

**4.** The twenty-fourth section of the said act is hereby repealed; and in lieu thereof be it enacted, that the sum or sums of money so deposited as last aforesaid shall remain in the bank by way of security to the parties respectively in respect of whose interests in the lands which shall so have been entered upon such sum or sums shall have been deposited for the payment of the money to become payable by the company to such parties respectively, for their respective interests in such lands under the award of the arbitrator; and the money so deposited may, on application by petition of the company, be ordered to be invested in bank annuities or government securities, and accumulated; and upon such payment as aforesaid by the company it shall be lawful for the Court of Chancery in Ireland, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the company, or in default of such payment as aforesaid by the company, it shall be lawful for the said court to order the

same to be applied in such manner as it shall think fit for the benefit of the parties for whose security the same shall so have been deposited.

5. If part only of the lands charged with any rent-charge or fee-farm rent be required to be taken for the purposes of the special act, the apportionment of any such rent or rent-charge may be settled by agreement between the party entitled to the same and the owner of the lands on the one part and the promoters of the undertaking on the other part, and if such apportionment be not settled by agreement the same shall be settled by the arbitrator; and the owner of the rent-charge or fee-farm rent shall have all the same rights and remedies for the recovery of such apportioned part, as against the lands not required for the purposes of the special act, as previously to such apportionment he had for recovery of the entire.

Apportionment of rent-charge, &c., where part only of the land charged is required.

6. If any land shall be comprised in a lease for a life or lives or for a term of years unexpired, part only of which lands shall be required for the purposes of the special act, the rent payable in respect of the lands comprised in such lease shall be apportioned between the lands so required and the residue of such lands, and such apportionment may be settled by agreement between the lessor and lessee of such lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement between the parties, such apportionment shall be settled by the arbitrator, and after such apportionment the lessee of such lands shall as to all future accruing rent be liable only to so much of the rent as shall be apportioned in respect of the lands not required for the purposes of the special act; and as to the land not so required, and as against the lessee, the lessor shall have the same rights and remedies for the recovery of such portion of rent as previously to such apportionment he had for the recovery of the whole rent reserved by such lease; and all the covenants, conditions, and agreements of such lease, except as to the amount of rent to be paid, shall remain in force with regard to that part of the land which shall not be required for the purposes of the special act, in the same manner as they would have done in case such part only had been included in the lease.

Apportionment of rent of lands under lease where part only of such lands is required.

7. In case upon the trial of any traverse under the provisions of the said act it shall appear that the sum awarded to the traverser by the jury shall be less than the sum awarded by the arbitrator, it shall be lawful for the judge, if he shall think fit to adjudge that such traverser is not entitled to any costs of such traverse, or that the company is entitled to costs not exceeding the sum of ten pounds against such traverser; and such adjudication of such judge shall be entered in the crown book, and such costs so awarded shall be deducted from the purchase or compensation money payable by the company to such traverser, or shall be recovered from him by distress in like manner as is provided by the fifty-third section of "The Lands Clauses Consolidation Act, 1845,"* with respect to costs payable to promoters.

Costs in case of traverse.

* Page 71.

8. "The Railways Act (Ireland), 1851," as amended by this act, and this act, shall be read together as one act, and shall be made perpetual, and this act shall be held to be incorporated with that act in any act already or hereafter incorporating that act.

Acts to be as one act, and to be perpetual.

9. This act may be cited as "The Railways Act (Ireland), 1860."

Short title.

# 23 & 24 VICT. CAP. 106.

*An Act to amend the Lands Clauses Consolidation Acts (1845) in regard to Sales and Compensation for Land by way of a Rent-charge, Annual Feu Duty or Ground Annual, and to enable Her Majesty's Principal Secretary of State for the War Department to avail himself of the Powers and Provisions contained in the same Acts.* [20th August, 1860.

8 & 9 Vict. c. 18. Ante, p. 64.

Whereas it is expedient to extend the provisions of the Lands Clauses Consolidation Acts, 1845, in regard to sales of land, or compensation for damages, in consideration of an annual rent-charge, annual feu duty or ground annual: Be it enacted, by (&c. &c.), as follows:

Repeal of part of sect. 10 of Lands Clauses Act.

**1.** So much of the tenth section of "The Lands Clauses Consolidation Act, 1845," as provides that, save in the case of lands of which any person is seised in fee or entitled to dispose absolutely for their own benefit, the consideration to be paid for any lands, or for any damage done thereto, shall be in a gross sum, is hereby repealed

Sects. 10, 11 of Lands Clauses Act, as to power to sell, &c., lands for rent-charge, extended to cases where parties under disability.

**2.** The power to sell and convey lands in consideration of an annual rent-charge provided by the tenth section of the said act, and the power to recover such rent-charge provided by the eleventh section of the said act, are hereby extended to all cases of sale and purchase or compensation under the said act where the parties interested in such sale or entitled to such compensation are under any disability or incapacity, and have no power to sell or convey such lands, or to receive such compensation, except under the provisions of the said act.

Scotland.

**3.** The power to sell and convey lands in consideration of an annual feu duty or ground annual, under the tenth section of "The Lands Clauses Consolidation (Scotland) Act, 1845,"* and the power to recover such annual feu duty or ground annual, are hereby extended to all cases of sale or purchase or compensation under the said act, where the parties interested in such sale are under any disability or incapacity, and have no power to sell or convey such lands, or to receive such compensation, except under the provisions of the said act.

* 8 & 9 *Vict.* c. 19.

Amount of rent-charge to be settled in manner directed by Lands Clauses Acts.

**4.** In every case of such sale or compensation by any parties other than parties seised in fee or entitled to dispose absolutely of the lands so sold or damaged, the amount of such rent-charge, annual feu duty or ground annual, hereinbefore mentioned, shall be settled in the manner directed in the ninth section of each of the said acts respectively; provided that the amount of such annual rent-charge, annual feu duty or ground annual shall in no case be less than one-fourth part greater than the net annual rent received by the parties beneficially interested in such lands, upon an average of the last seven years; and that a charge of five per cent. on the gross sum estimated or fixed as aforesaid, by way of compensation for any damage that may be done to the said lands, shall in all such cases be added to and shall form a part of the said rent-charge, annual feu duty or ground annual; and that no fine, foregift, grassum, premium, or other consideration in the nature thereof shall be paid or taken in respect of the lands so sold or damaged, other than the annual rent-charge, annual feu duty or ground annual made payable for such lands: Provided also, that such rent-charge shall be and remain upon and for the same uses, trusts and purposes as those upon which the rents and profits of the land so conveyed stood settled or assured at or immediately before the conveyance thereof, and shall be a first charge on the tolls and rates, if any, payable under the special act.

**5**. In case the promoters of the undertaking shall be empowered, by any act or acts relating thereto, to be passed after the passing of this act, to borrow money to an amount not exceeding a prescribed sum, then in the event of the promoters of the undertaking agreeing at any time after the passing of this act with any person under the powers of this act and of either of the acts hereinbefore mentioned, or of either of the said acts only, for the purchase of any lands in consideration of the payment of a rent-charge, annual feu duty or ground annual, the powers of the promoters of the undertaking for borrowing money shall be reduced by an amount equal to twenty years' purchase of any rent-charge, annual feu duty or ground annual, so for the time being payable.

*If lands purchased by way of rent-charge, borrowing powers to be reduced proportionally.*

**6, 7**. [Purchase by municipality, or by War or Admiralty Departments.]

**8**. This act shall be read and construed as part of the said "Lands Clauses Consolidation Act, 1845," or of "The Lands Clauses Consolidation (Scotland) Act, 1845," in all matters in which it relates to the said acts respectively; and in citing this act in other acts of Parliament, and in legal instruments, it shall be sufficient to use the expression of "The Lands Clauses Consolidation Acts Amendment Act, 1860."

*This act, and Lands Clauses Acts of 1845, to be construed together.*

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## 24 & 25 VICT. CAP. 97.

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Malicious Injuries to Property.* [See ch. XII. s. 17.]

[6th August, 1861.

**4**. Whosoever shall unlawfully and maliciously set fire to any station, engine-house, warehouse, or other building belonging or appertaining to any railway, port, dock, or harbour, or to any canal or other navigation, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* (*p*) years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping.

*Setting fire to any railway station.*

**33**. Whosoever shall unlawfully and maliciously pull or throw down or in anywise destroy any bridge (whether over any stream of water or not), or any viaduct or aqueduct, over or under which bridge, viaduct, or aqueduct any highway, railway, or canal shall pass, or do any injury with intent and so as thereby to render such bridge, viaduct, or aqueduct, or the highway, railway, or canal passing over or under the same, or any part thereof, dangerous or impassable, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* (*p*) years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

*Injury to a public bridge.*

**35**. Whosoever shall unlawfully and maliciously put, place, cast, or throw upon or across any railway any wood, stone, or other matter or thing, or shall unlawfully and maliciously take up, remove, or displace any rail, sleeper, or other matter or thing belonging to any railway, or shall unlawfully and maliciously turn, move, or divert any points or other machinery belonging to any railway, or shall unlawfully and maliciously make or show,

*Placing wood, &c., on railway with intent to obstruct or overthrow any engine, &c.*

(*p*) Now five, by 27 & 28 Vict. c. 47, s. 2.

hide or remove, any signal or light upon or near to any railway, or shall unlawfully and maliciously do or cause to be done any other matter or thing, with intent, in any of the cases aforesaid, to obstruct, upset, overthrow, injure, or destroy any engine, tender, carriage, or truck using such railway, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* (q) years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen, with or without whipping (qq).

Obstructing engines or carriages on railways.

**36.** Whosoever, by any unlawful act, or by any wilful omission or neglect, shall obstruct or cause to be obstructed any engine or carriage using any railway, or shall aid or assist therein, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

Injuries to electric or magnetic telegraphs.

**37.** Whosoever shall unlawfully and maliciously cut, break, throw down, destroy, injure, or remove any battery, machinery, wire, cable, post, or other matter or thing whatsoever, being part of or being used or employed in or about any electric or magnetic telegraph, or in the working thereof, or shall unlawfully and maliciously prevent or obstruct in any manner whatsoever the sending, conveyance, or delivery of any communication by any such telegraph, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour: Provided that if it shall appear to any justice, on the examination of any person charged with any offence against this section, that it is not expedient to the ends of justice that the same should be prosecuted by indictment, the justice may proceed summarily to hear and determine the same, and the offender shall, on conviction thereof, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay such sum of money not exceeding ten pounds, as to the justice shall seem meet.

Attempt to injure such telegraphs.

**38.** Whosoever shall unlawfully and maliciously, by any overt act, attempt to commit any of the offences in the last preceding section mentioned, shall, on conviction thereof before a justice of the peace, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding three months, or else shall forfeit and pay such sum of money not exceeding ten pounds, as to the justice shall seem meet.

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## 24 & 25 VICT. CAP. 100.

[See ch. XII. s. 17.]

*An Act to consolidate and amend the Statute Law of England and Ireland relating to Offences against the Person.*

[6th August, 1861.

Placing wood, &c., on a railway, with intent to endanger passengers.

**32.** Whosoever shall unlawfully and maliciously put or throw upon or across any railway any wood, stone, or other matter or thing, or shall unlawfully and maliciously take up, remove, or displace any rail, sleeper, or

(q) Now five, by 27 & 28 Vict. c. 47, s. 2.

(qq) As to summary trial of child below 12 and (with consent) of "young person" between 12 and 16, see Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49, ss. 10, 11, 49, and Schedule 1.

other matter or thing belonging to any railway, or shall unlawfully and maliciously turn, move, or divert any points or other machinery belonging to any railway, or shall unlawfully and maliciously make or show, hide or remove, any signal or light upon or near to any railway, or shall unlawfully and maliciously do or cause to be done any other matter or thing, with intent, in any of the cases aforesaid, to endanger the safety of any person travelling or being upon such railway, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* (r) years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and, if a male under the age of sixteen years, with or without whipping (rr).

Casting stone, &c., upon a railway carriage, with intent to endanger the safety of any person therein.

**33**. Whosoever shall unlawfully and maliciously throw, or cause to fall or strike, at, against, into, or upon any engine, tender, carriage, or truck, used upon any railway, any wood, stone, or other matter or thing, with intent to injure or endanger the safety of any person being in or upon such engine, tender, carriage, or truck, or in or upon any other engine, tender, carriage, or truck of any train of which such first-mentioned engine, tender, carriage, or truck shall form part, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than *three* (r) years,—or to be imprisoned for any term not exceeding two years, with or without hard labour (rr).

Doing or omitting anything to endanger passengers by railway.

**34**. Whosoever, by any unlawful act, or by any wilful omission or neglect, shall endanger or cause to be endangered the safety of any person conveyed or being in or upon a railway, or shall aid or assist therein, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour.

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## 25 & 26 VICT. CAP. 69.

*An Act for transferring from the Admiralty to the Board of Trade certain Powers and Duties relative to Harbours and Navigation under Local and other Acts; and for other Purposes.*

[29th July, 1862.

Be it enacted, &c.:

**1**. This act may be cited as "The Harbours Transfer Act, 1862." Short title.

**2**. In this act— Interpretation of terms.

The term "the Admiralty" shall be taken to mean the lord high admiral of the United Kingdom for the time being, or the commissioners for the time being for executing the office of lord high admiral; and when the said term is used in reference to any other act, it shall be taken to comprise any term whatsoever used in such other act to designate such lord high admiral or commissioners:

The term "the Board of Trade" shall be taken to mean the lords of the committee of privy council for the time being appointed for the consideration of matters relating to trade and foreign plantations.

(r) Now five, by 27 & 28 Vict. c. 47, s. 2.

(rr) As to summary trial of child below 12, and (with consent) of "young person" between 12 and 16, see Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49, ss. 10, 11, 49, and Schedule 1.

*Railways Clauses Consolidation Acts*, 1845.

Consent and approval of Board of Trade to railway works on tidal lands

6. With respect to any special act that may be passed after the end of the present session of parliament, sect 17 of "The Railways Clauses Consolidation Act, 1845," and "The Railways Clauses Consolidation (Scotland) Act, 1845," respectively, and all provisions relative thereto in the said acts or in any such future special act contained, shall be read and construed as if the Board of Trade were named in the said sections instead of the admiralty.

8. [Powers for protection of navigation, &c., under local acts for harbours, railways, and other works on tidal lands, &c., to be exercised by Board of Trade, instead of by Board of Admiralty.]

9. [Power to Admiralty to retain authority over ports, &c., where her Majesty's dockyards, &c., are situate.]

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## 25 & 26 VICT. CAP. 102.

*An Act to amend the Metropolis Local Management Acts.*

[7th August, 1862.

Plan, &c., of works affecting railways or canals to be submitted to companies

34. Where any works authorized by this or the recited acts (s) will interfere with any railway or canal, the board or vestry proposing to construct such works shall, before commencing the same, give notice in writing of their intention so to do to the company owning such railway or canal, and shall, together with such notice, deliver a plan and section showing the nature of such interference; and if, within seven days after the receipt of such notice, the company shall, by writing addressed to the board or vestry, object to the manner in which it is intended to interfere with such railway or canal respectively on account of the probable interruption or endangering of the traffic thereon, the same works shall not be commenced, and it shall thereupon be referred to an engineer to be appointed by the Board of Trade, on the application of either party, to determine the manner of executing the said works, and the determination come to by such engineer shall be binding on both parties.

Line of railway not to be altered without consent of company or Board of Trade.

35. Provided always, that it shall not be lawful for any board or vestry to alter the level of any railway or canal, unless with the consent of the company owning the same respectively, or, if that be refused, with the consent of the Board of Trade; and provided also, that nothing in this act contained shall take away or affect the right of any railway or canal company to compensation for the taking or injuriously affecting of any land or property of such company, or for or by reason of the interruption of any traffic on their railway or canal, or for any damages, costs or expenses which such company may be required to pay in consequence of such interruption.

(s) 18 & 19 Vict c. 120; 19 & 20 Vict. c. 112; 21 & 22 Vict. c. 104.

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## 26 & 27 VICT. CAP 33.

*An Act for granting to her Majesty certain Duties of Inland Revenue; and to amend the Laws relating to the Inland Revenue.* [29th June, 1863.

**13.** Whereas by the fourth section of the act passed in the fifth and sixth years of her Majesty's reign, chapter seventy-nine, the proprietor or company of proprietors of every railway in Great Britain, and other persons therein named, are required to keep and render certain accounts as therein mentioned; and it is expedient to alter the period for which such accounts are directed to be made up, and the time of delivering the same: Be it enacted, That the proprietor, or company of proprietors of every railway in Great Britain, and the persons required by law to keep such accounts as aforesaid, shall deliver to the Commissioners of Inland Revenue, or to the proper officer appointed for receiving the same, within twenty days after the termination of every calendar month, a true copy or true copies of the accounts of all sums of money received or charged and paid or accounted for as in the said act is mentioned during the whole of the calendar month last preceding: and all the provisions and regulations contained in the said act with regard to the accounts therein directed to be rendered, and all bonds and securities entered into or given or to be entered into or given with relation thereto, shall apply, continue and be in force as well with respect to any surety as to the principal in any such bond, and to the accounts to be kept and rendered at the time and in the manner by this act directed, and the duties payable in respect thereof.

Accounts of sums received for conveyance of passengers to be made up within 20 days after end of month.

[**14.** *The exemption from duty granted by 7 & 8 Vict. c. 85, s. 9, in respect of the conveyance of passengers by cheap trains, shall not extend to any railway train which shall not be a train running on at least six days of the week, or else a train running to or from a market town on a market day, and approved of by the Lords of the Committee of Privy Council for Trade and Plantations as a cheap train for the conveyance of passengers to or from market, or a train approved by the said Lords of the Committee of Privy Council as an ordinary train of the railway travelling on Sunday, and conveying third-class passengers at fares not exceeding one penny per mile.* Repealed by Cheap Trains Act, 1888, except as to Ireland (see ss. 10 and 11 of that act).]

*Restriction on exemption from passenger duty.*

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## 26 & 27 VICT. CAP. 92 (THE RAILWAYS CLAUSES ACT, 1863).

*An Act for consolidating in one Act certain Provisions frequently inserted in Acts relating to Railways.* [28th July, 1863.

Whereas "The Railways Clauses Consolidation Act, 1845,"† and "The Railways Clauses Consolidation (Scotland) Act, 1845,"‡ respectively, were passed in order to comprise in one general act such provisions relating to railways in England or Ireland, or in Scotland, respectively, as were at the times of the passing of those acts usually introduced into acts of Parliament authorizing the construction of railways:

† Ante, p. 96.
‡ 8 & 9 *Vict.* c. 33.

And whereas sundry provisions of the like nature, but not comprised in the said general acts respectively, are now frequently introduced into acts of Parliament relating to railways, and it is expedient to comprise such

last-mentioned provisions also in one general act, such act to be applicable to England or Ireland, or to Scotland, as the case may require, and that as well for the purpose of avoiding the necessity of repeating such provisions in special acts relating to railways, as for ensuring greater uniformity in the provisions themselves :

Be it therefore enacted (&c. &c.) as follows :

Short title. 1. This act may be cited as "The Railways Clauses Act, 1863."

Division of act into parts. 2. This act shall be deemed to be divided into five parts, as follows :

Part I. relating to construction of a railway (sect. 3) ;

Part II. relating to extension of time (sect. 20) ;

Part III. relating to working agreements (sect. 22) ;

Part IV. relating to steam vessels (sect. 30) ;

Part V. relating to amalgamation (sect. 36).

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## PART I.

### CONSTRUCTION OF A RAILWAY.

Application of Part I. 3. This part of this act shall apply to the railway authorized to be constructed by any special act hereafter passed and incorporating this part of this act.

Interpretation clause. In this part of this act—

All terms used have the same meanings as the same terms have when used in "The Railways Clauses Consolidation Act, 1845," * and "The Railways Clauses Consolidation (Scotland) Act, 1845," respectively :

The term "tidal river" means any part of a river within the flow and ebb of the tide at ordinary spring tides :

The term "tidal water" means any part of the sea or any part of a river within the flow and ebb of the tide at ordinary spring tides :

The term "tidal lands" means such parts of the bed, shore, or banks of a tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides.

The provisions respecting the recovery of penalties contained in the said Railways Clauses Consolidation Acts respectively, † as the case may require, shall be incorporated with this part of this act.

* Ante, p. 97.

† Ante, p. 120.

*Alteration of Engineering Works.*

Power to alter engineering works. 4. Notwithstanding anything in the said Railways Clauses Consolidation Acts respectively contained, the company, in the construction of the railway, may deviate from the line or level of any arch, tunnel, or viaduct, described on the deposited plans or sections so as the deviation be made within the limits of deviation shown on those plans, and subject to the limitations contained in sections eleven, twelve, and fifteen ‡ of those acts respectively, and so as the nature of the work described be not altered, and may also substitute any engineering work not shown on the deposited plans or sections for an arch, tunnel or viaduct as shown thereon : Provided that every such substitution be authorized by a certificate of the Board of Trade ; and the Board of Trade may grant such certificate in case it appears to them, on due inquiry, that the company has acted in the matter with good faith, and that the owners, lessees and occupiers of the lands in which the substitution is intended to be made consent thereto, and also that the safety and convenience of the public will not be diminished thereby.

‡ Ante, p. 100.

Provided that nothing in the present section shall affect any power given to the company or to the Board of Trade by section eleven, twelve, fourteen, or fifteen of the last-mentioned acts respectively.

*Level Crossings.*

5. Where the company is authorized by the special act to carry the railway across a turnpike road or public carriage road on a level, it shall not be lawful for the company in shunting trains to pass any train over the level crossing, or at any time to allow any train, engine, carriage or truck to stand across the same.

Level crossings, trains not to be shunted over. [See ch. IX s. 6.]

6. For the greater convenience and security of the public, the company shall erect and permanently maintain a lodge at the point where the railway crosses on the level the turnpike road or public carriage road: and the company shall be subject to and shall abide by all such regulations with regard to the crossing thereof on the level, or with regard to the speed at which trains may pass the level crossing, as may from time to time be made by the Board of Trade.

Company to erect lodge at point of crossing.

If the company fails to erect, or to maintain, such lodge, or to appoint or keep a proper person to watch or superintend the level crossing, or to observe or abide by any such regulation as aforesaid, they shall for every such offence be liable to a penalty not exceeding twenty pounds, and also to a penalty of ten pounds for every day during which the offence continues after the penalty of twenty pounds is incurred.

Penalty.

7. The Board of Trade may, if it appears to them necessary for the public safety, at any time after the passing of the special act, require the company, within such time as the Board of Trade directs, and at the expense of the company, to carry the turnpike road or public carriage road either under or over the railway by means of a bridge or arch, instead of crossing the same on the level, or to execute such other works as, under the circumstances of the case, may appear to the Board of Trade best adapted for removing or diminishing the danger arising from the level crossing.

Board of Trade may require bridge instead of level crossing.

Where the road is so carried either under or over the railway, it shall not be necessary for the company to erect or maintain a lodge at the point where the road is crossed, or to appoint a person to watch or superintend the crossing thereat, nor shall they be liable to any penalty for failure so to do.

8. If the Board of Trade certifies that the public safety requires that additional lands be taken by the company for the purpose of the work directed by the Board of Trade to be executed, the company may, subject to the provisions of "The Lands Clauses Consolidation Act, 1845," or "The Lands Clauses Consolidation (Scotland) Act, 1845," as the case may require, enter upon, take and use all or any part of the lands specified in the certificate of the Board of Trade as being necessary for the purpose of the work; and the Board of Trade before issuing the certificate shall cause at least three months' notice to be given to any person who may be entitled to claim under the last-mentioned acts, or otherwise, compensation in respect of the taking of such lands or in respect of such work.

Power to company to take additional land for such work.

Certificate of Board of Trade.

*Junctions.*

9. Where the company is authorized by the special act to make a junction between the railway and any other railway, then and in every such case all interferences with the works of the other railway, necessary or convenient for effecting the junction, shall be made under the superintendence and to the reasonable satisfaction of the engineer for the time being of the company or person to whom the other railway belongs; and in case of any difference arising as to the mode of effecting the junction, the same shall be determined by a referee to be appointed by the Board of

Junction with other railways to be made under the direction of the engineer of those railways.

Trade, on the application of either party, at the cost of the company making the junction.

Company to acquire only easements in land of other railway company.

**10.** With respect to any lands belonging to the company or persons to whom the other railway belongs, which the company are by the special act authorized to use, enter upon, or interfere with, for the purposes of the junction, the company shall not, except by agreement, or unless otherwise provided in the special act, purchase and take the same but the company may purchase and take, and such other railway company or person may and shall sell and grant accordingly, an easement or right of using the same for the purposes of the junction.

Not to take lands of other company further than necessary.

**11.** Nothing relative to the junction in this act contained shall be deemed to authorize the company for the purposes of the junction to take or enter upon any lands belonging to the company or person to whom the other railway belongs, or to alter or interfere with any railway, or any of the works thereof, further or otherwise than is necessary for making the junction and inter-communication between the railways, as shown on the deposited plans and sections of the railway to which the special act relates, without the previous consent in writing in every instance of such other railway company or such person.

Signals.

**12.** The company or person with whose railway the junction is made may from time to time erect such signals and conveniences incident to the junction, either on their or his own lands or on the lands of the company making the junction, and may from time to time appoint and remove such watchmen, switchmen, or other persons as may be necessary for the prevention of danger to, or interference with, the traffic at and near the junction.

Paid for by company making junction, and worked by other company.

The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the company or person with whose railway the junction is made; and all the expenses of erecting and maintaining those signals and conveniences, and of employing those watchmen, switchmen, and other persons, and all incidental current expenses, shall, at the end of every half-year, be repaid by the company making the junction, and in default thereof may be recovered from them in any court of competent jurisdiction.

*Protection of Navigation.*

Lights on works across tidal lands

**13.** Where the company is authorized by the special act to construct, alter, or extend any work on, in, over, through, or across tidal lands or a tidal water, the company shall, on or near the work, during the whole time of the constructing, altering, or extending thereof, exhibit and keep burning at their own expense, every night from sunset to sunrise, such lights (if any) as the Board of Trade from time to time requires or approves; and (notwithstanding the enactments for the time being in force respecting lighthouses) shall also on or near the work, when completed, always maintain, exhibit, and keep burning, at their own expense, every night from sunset to sunrise, such lights (if any) for the guidance of ships as the Board of Trade from time to time requires or approves.

Penalty.

If the company fails to comply in any respect with the provisions of the present section, they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds.

Bridges over tidal water.

**14.** Where the company is authorized or required by the special act to construct a bridge over a navigable tidal water, and the special act does not make express provision respecting the span or spans thereof, then the company shall construct the same with a span or spans of such headway and waterway, and with such opening span or spans (if any), and according to such plan, as the Board of Trade directs or approves.

**15.** Where the company constructs a bridge with an opening span, it shall not be lawful for the company to detain any vessel, barge, or boat at the bridge for a longer time than may be necessary for admitting a carriage or engine traversing the railway and approaching the bridge to cross the bridge, and for opening the bridge to admit the vessel, barge, or boat to pass; and the company shall be subject to and shall abide by such regulations with regard to the user of the bridge as may from time to time be made by the Board of Trade. Detainer of vessels passing through opening span.

If the company detains a vessel, barge, or boat longer than the time aforesaid, or fails in any respect to abide by any such regulation as aforesaid, they shall for every such offence be liable to a penalty not exceeding twenty pounds, without prejudice to any remedy against them for any loss or damage sustained by any person. Penalty.

**16.** Where the railway cuts off access between the land and a tidal water or tidal lands, then and in every such case the company shall, during the construction of the railway, and from time to time thereafter, make, and shall permanently maintain, and allow to be used by all persons, at all times, free of toll or other charge, all such footways and carriageways over, under, or across the railway, or on a level therewith, as the Board of Trade from time to time directs or approves: Provided always, as follows:— Access to shore under or across railway. Free footways and carriageways.

(1.) The company shall not be obliged to make a footway or carriageway over lands for the use of an owner or occupier who has agreed to receive and has been paid compensation for the severance thereof from the tidal water or tidal lands:

(2.) The company shall not be obliged to make or to allow to be made a footway or carriageway in such manner as would interfere with the working or using of the railway:

(3.) The expense of the making and maintenance of a footway or carriageway required to be made after the construction of the railway shall be defrayed by the persons or body interested in the tidal water or tidal lands for whose benefit or convenience the same is required.

Where the footway or carriageway is made across the railway on the level, then the manner of the making and watching of the level crossing shall be subject to the approval of the Board of Trade; and where the level crossing is made after the construction of the railway, then all expenses attending the watching thereof shall be defrayed by the persons or body interested in the tidal water or tidal lands for whose benefit or convenience the same is required.

**17.** Where the company is authorized by the special act to construct a railway skirting a public navigable tidal river or channel, the company shall not make any deviation of the railway from the continuous centre line thereof marked on the plan deposited by them at the Board of Trade, even within the limits of deviation shown on that plan, in such manner as to diminish the navigable space, without the previous consent of the Board of Trade, or otherwise than in such manner as is expressly authorized by the Board of Trade. Prohibition of deviation of certain works without consent of Board of Trade.

If any deviation is made in contravention of the present section, the Board of Trade may abate and remove the work in the construction whereof the deviation is made, or any part thereof, and restore the site thereof to its former condition, at the expense of the company; and the amount of such expense shall be a debt due from the company to the crown, and be recoverable accordingly with costs, or the same may be recovered, with costs as a penalty is recoverable from the company.

**18.** If a work constructed by the company on, in, over, through or across tidal lands, or a tidal water is abandoned, or suffered to fall into decay, the Abatement of work abandoned or decayed.

Board of Trade may abate and remove the work, or any part of it, and restore the site thereof to its former condition, at the expense of the company; and the amount of such expense shall be a debt due from the company to the crown, and be recoverable accordingly, with costs, or the same may be recovered, with costs, as a penalty is recoverable from the company.

Survey of works by Board of Trade.

**19.** If at any time the Board of Trade deems it expedient, for the purposes of the special act or of this part of this act, to order a survey and examination of a work constructed by the company on, in, over, through or across tidal lands or tidal water, or of the intended site of any such work, the company shall defray the expense of the survey and examination; and the amount thereof shall be a debt due from the company to the crown, and be recoverable accordingly, with costs, or the same may be recovered, with costs, as a penalty is recoverable from the company.

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## PART II.

### EXTENSION OF TIME.

Parties aggrieved by extension of time may have compensation for additional damage

**20.** Where a railway is authorized to be constructed by a special act passed either before or after the passing of this act, and the time limited by the special act for the exercise of powers of compulsory purchase of lands, or of powers for construction of the railway and works, is extended by a special act hereafter passed and incorporating this part of this act,—then and in every such case the justices, arbitrators, umpires or juries, as the case may be, who award or assess the compensation to be made by the company to the owners or occupiers of, or other persons interested in, lands taken or used for the purposes of the railway and works, or injuriously affected by the construction thereof, shall, in estimating the amount of such compensation, have regard to, and assess compensation for, the additional damage (if any) sustained by those owners, occupiers or other persons, by reason of the extension of time.

Existing contracts and notices to take lands not to be affected.

**21.** The extension of time shall not affect any contract entered into or notice given by the company before the passing of the special act granting the extension, for purchasing, taking or using any lands which the company was entitled to purchase, take or use; but every such contract and notice shall be construed and take effect, and the same proceedings may be had thereunder, and all parties thereto shall be entitled to the same rights and remedies in respect thereof, at law and in equity, as if the extension had not been granted.

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## PART III.

### WORKING AGREEMENTS.

Restrictions on agreements between companies

[See vol. I. ch. XIV. s. 2.]

**22.** Where two or more companies are authorized by a special act hereafter passed and incorporating this part of this act, to agree among themselves with respect to all or any of the following purposes (*u*); namely,—

The maintenance and management of the railways of the companies respectively, or any one or more of them, or any part thereof respectively, and of the works connected therewith respectively, or any of them;

The use and working of the railways or railway, or of any part thereof, and the conveyance of traffic thereon;

(*u*) See also 27 & 28 Vict. c. 120, s. 3 et seq., post.

The fixing, collecting and apportionment of the tolls, rates, charges, receipts and revenues levied, taken or arising in respect of traffic :—

then and in every such case the authority so to agree, or the agreement when entered into, shall not in any manner affect any of the tolls, rates or charges which the companies parties thereto are from time to time respectively authorized to demand and receive from any person or from any other company ; but all such persons and companies shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of the several companies parties to the agreement, on the same terms and conditions, and on payment of the same tolls, rates and charges as they would be if such authority had not been given or the agreement had not been entered into.

Sanction of shareholders to agreements.

**23.** The agreement shall not, save so far as its terms and conditions are authorized by "The Railways Clauses Consolidation Act, 1845," * or by "The Railways Clauses Consolidation (Scotland) Act, 1845," as the case may require, or by any other general statute or law from time to time in force with respect to the companies parties to the agreement, have any operation unless and until it is sanctioned by such proportion of the votes of the shareholders and stockholders entitled to vote in that behalf at meetings of the several companies parties thereto, present (personally or by proxy) at a general meeting of each company specially convened for the purpose (in manner hereinafter mentioned), as is prescribed in the special act, and if no proportion is prescribed, then by three-fifths of such votes.

* Sect. 87, p. 120.

Every such meeting shall be convened by circular addressed to each such shareholder and stockholder, and served in the manner prescribed by "The Companies Clauses Consolidation Act, 1845," † or "The Companies Clauses Consolidation (Scotland) Act, 1845," as the case may require, with respect to notices requiring to be served by the company upon the shareholders, and also by advertisement inserted once at least in each of two consecutive weeks in some newspaper published or circulating in the county prescribed in the special act, and if no county is prescribed, then in the county in which the head office of the company is situate, the last of such advertisements to be published not less than seven days before the meeting.

† Sect. 136

Public notice of intention to enter into such agreement.

**24.** Before the companies enter into the agreement notice of their intention to do so shall be given by them or one of them, in a form to be approved by the *Board of Trade* (*v*), inserted once at least in each of three successive weeks in some newspaper published or circulating in the county prescribed in the special act, and if no county is prescribed, then in the county or one of the counties in which each railway to the maintenance, management, use or working whereof the proposed agreement relates, or some portion of that railway, is situate ; and the notice shall set forth within what time and in what manner any company or person aggrieved by the proposed agreement, and desiring to object thereto, may bring the objection before the *Board of Trade* (*v*).

Approval of Railway Commissioners.

**25.** The agreement shall not have any operation until it is approved by the *Board of Trade* (*v*) and the *Board of Trade* (*v*) shall not approve the agreement without being satisfied of its having received such sanction of meetings of the respective companies as aforesaid.

Joint committee for purposes of agreements.

**26.** The companies parties to the agreement may, in accordance therewith and for the purposes thereof, appoint a joint committee, composed of such number of the directors of each company as the companies think proper, and from time to time may vary and renew the joint committee as occasion requires, and may regulate the proceedings of the joint committee, and may delegate to the joint committee all such of the powers of the companies as the companies think necessary for carrying into effect the

(*v*) Now, the Railway Commissioners, see 36 & 37 Vict. c. 48, s. 10, post.

purposes of the agreement; and the joint committee shall have and may exercise the powers so from time to time delegated to them in like manner as the same powers might be had and exercised by the companies respectively or their respective directors.

Agreements between companies may be modified by Railway Commissioners.

**27.** At the expiration of the first or any subsequent period of ten years after the making of the agreement, the *Board of Trade* (*w*) may, if they are of opinion that the interests of the public are prejudicially affected thereby, cause the same to be revised; and the *Board of Trade* (*w*) may require the companies parties thereto to publish such notices of any intended revision of the agreement as the *Board of Trade* (*w*) may direct; and the *Board of Trade* (*w*) may modify the agreement in such manner as may seem expedient for the protection of the interests of the public, and may declare the modification to be part of the agreement, and the same shall be read and take effect accordingly.

Working agreements between a company and an individual.

**28.** Where a company is authorized by a special act hereafter passed, and incorporating this part of this act, to agree with a person being the proprietor of a railway with respect to all or any of the purposes specified in this part of this act, then and in every such case the provisions of this part of this act shall apply, mutatis mutandis, to the company in relation to such authority and to the agreement entered into by virtue thereof.

Alteration of agreement.

**29.** For the purposes of this part of this act, any alteration of an agreement by the parties thereto shall be deemed an agreement.

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## PART IV.

### STEAM VESSELS (*x*).

Provision for securing equality of treatment.

**30.** Where a railway company incorporated either before or after the passing of this act is authorized [by a special act hereafter passed and incorporating this part of this act] to build, or buy or hire, and to use, maintain and work, or to enter into arrangements for using, maintaining or working steam vessels for the purpose of carrying on a communication between any towns or ports, and to take tolls in respect of such steam vessels,—then and in every such case tolls shall be at all times charged to all persons equally, and after the same rate in respect of passengers conveyed in a like vessel passing between the same places under like circumstances; and no reduction or advance in the tolls shall be made in favour of or against any person using the steam vessels in consequence of his having travelled or being about to travel on the whole or any part of the company's railway, or not having travelled or not being about to travel on any part thereof; or in favour of or against any person using the railway in consequence of his having used or being about to use or his not having used or not being about to use the steam vessels; and where an aggregate sum is charged by the company for conveyance of a passenger by a steam vessel and on the railway, the ticket shall have the amount of toll charged for conveyance by the steam vessel distinguished from the amount charged for conveyance on the railway.

Application of Railway and Canal Traffic Act.

**31.** The provisions of "The Railway and Canal Traffic Act, 1854" (*y*), so far as the same are applicable, shall extend to the steam vessels, and to the traffic carried on thereby.

(*w*) Now the Railway Commissioners; see 36 & 37 Vict. c. 48, s. 10, post.

(*x*) See also 31 & 32 Vict. c. 119, s. 16, post, which, being identical with the present section and section 31 (except as regards the words enclosed in brackets), would seem to render those sections superfluous.

(*y*) 17 & 18 Vict. c. 31, ante, p. 175; and see note to sect 30.

Company may make bye-laws for regulating steam vessels.

**32.** The company may from time to time make bye-laws in relation to passengers, animals and goods conveyed in or upon the steam vessels, and as to the embarkation and disembarkation thereof respectively, and may enforce the observance of the same by penalties, in the same manner as they may with respect to passengers, animals and goods conveyed upon their railways; such bye-laws to be sanctioned and authenticated in the same manner as is required by any special or other act with respect to bye-laws relating to the company's railway, and being published by being painted on boards, or printed on paper and pasted on boards, and hung up or affixed and continued on some conspicuous part of every steam vessel and landing-place of the company; and such bye-laws, and all penalties in respect of the breach thereof, shall be enforced and recovered in the same manner as is provided with respect to bye-laws relating to the company's railway, and to penalties in respect of the breach thereof.

Recovery of money by distress.

**33.** All tolls and charges for the steam vessels due and payable to the company on any account whatsoever, and all costs, damages and expenses by the special act directed to be paid in respect of the steam vessels, may be levied by distress; and in England or Ireland any justice, and in Scotland the sheriff, may, on application by or on behalf of the company, issue his warrant accordingly.

The justice or sheriff who issues the warrant of distress may order that the costs of the proceedings for the recovery of the toll or sum shall be paid by the person liable to pay the toll or sum, and the costs shall be ascertained by the justice or sheriff, and shall be included in the warrant of distress for the recovery of the toll or sum.

Several names in one warrant.

**34.** Any number of names and sums may be included in any warrant of distress or notice obtained or given by the company for any of the purposes of this part of this act, or of the provisions of the special act with respect to the steam vessels, and may be stated either in the body of the warrant or notice, or in a schedule thereto.

Provision for cesser of powers as to steam vessels, on report from Railway Commissioners.

**35.** In every seventh year after the passing of the special act reckoned from the first day of January next after its passing, the *Board of Trade* (z), if they are of opinion that the interests of the public are prejudicially affected by the exercise of the powers of the company relative to steam vessels, may give to the company notice in writing thereof, and of the reasons on which that opinion is founded; and if the company does not before the beginning of the then next session of Parliament make provision to the satisfaction of the *Board of Trade* (z) for protection of the interests of the public, or if the injury done to the interests of the public is in the opinion of the *Board of Trade* (z) incapable of being remedied by the company, then the *Board of Trade* (z), at the beginning of the session of Parliament then next following, shall report to both houses of Parliament such their opinion, and the reasons on which that opinion is founded; and at the expiration of twelve calendar months after the presentation to the houses of Parliament of that report, the powers of the company relative to steam vessels, or such of them as are specified in the report, shall, unless Parliament in the meantime otherwise provides, cease to be exercised.

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## Part V.

### Amalgamation.

Application of Part V.

**36.** This part of this act shall apply where two or more railway companies, respectively incorporated either before or after the passing of this

(z) Now the Railway Commissioners; see 36 & 37 Vict. c. 48, s. 10, post.

act, are amalgamated by a special act hereafter passed and incorporating this part of this act.

Definition of cases of amalgamation (a).

**37.** For the purposes of this part of this act, companies shall be deemed amalgamated by a special act, in either of the following cases:

(1.) Where by the special act two or more companies are dissolved, and the members thereof respectively are united into and incorporated as a new company:

(2.) Where by the special act a company or companies is or are dissolved, and the undertaking or undertakings of the dissolved company or companies is or are transferred to another existing company, with or without a change in the name of that company:

And in this part of this act, such special act is referred to as the amalgamating act; the company incorporated or continued by or under the amalgamating act is referred to as the amalgamated company; and the time prescribed in the amalgamating act for the amalgamation taking effect, and if no time is prescribed, then the time of the passing of the amalgamating act, is referred to as the time of amalgamation.

Undertakings of dissolved companies vested in amalgamated company.

**38.** In every case of amalgamation, the undertaking, railways, harbours, navigations, ferries, wharfs, canals, works, real and personal property, powers, authorities, privileges, exemptions, rights of action and suit, and all other the rights and interests of the dissolved company, shall, subject to the contracts, obligations, debts and liabilities of that company, become at the time of amalgamation, and by virtue of the amalgamating act, vested in the amalgamated company, and may and shall be held, used, exercised and enjoyed by the amalgamated company in the same manner and to the same extent as the same respectively, at the time of amalgamation, are, or if the amalgamating act were not passed might be, held, used, exercised and enjoyed by the dissolved company.

Acts relating to dissolved companies to apply to amalgamated company.

**39.** The special acts relating to or affecting the dissolved company, or their undertaking, in force at the passing of the amalgamating act, shall, except so far as they are thereby expressed to be varied or repealed, remain in full force; and all rights and powers thereby conferred on and vested in the dissolved company in relation to their undertaking may be enjoyed and exercised by the amalgamated company in relation to the dissolved undertaking; and all matters to be done, continued or completed, or which but for the amalgamation would, might or could be done, continued or completed, by the dissolved company, or their directors, officers or servants, under or by virtue of those acts, shall or may be done, continued or completed by the amalgamated company, and their directors, officers and servants, as the case may be; and every special act, so far as it relates to or affects the dissolved company or their undertaking, shall be read and construed as if the name of the amalgamated company had been used therein in relation to that undertaking instead of the name of the dissolved company.

Saving debts and claims of dissolved companies

**40.** Except as may be otherwise provided in the special act, all debts and money due from or to the dissolved company, or any persons on their behalf, shall be payable and paid by or to the amalgamated company; and all tolls, rates, duties and money due or payable by virtue of any act relating to the dissolved company from or to that company shall be due and payable from or to the amalgamated company, and shall be recoverable from or by the amalgamated company by the same ways and means, and subject to the same conditions, as the same would or might have been recoverable from or by the dissolved company if the amalgamating act had not been passed.

(a) See *West Hartlepool, &c. R. Co.* v. *Jackson*, 36 L. J. (Ch.) 189.

**41.** All deeds, conveyances, grants, assignments, leases, purchases, sales, mortgages, bonds, covenants, agreements, contracts and securities which before the amalgamation have been executed, made or entered into by, with, to, or in relation to the dissolved company, or the directors thereof, and which are in force at the time of amalgamation, and all obligations and liabilities which before the amalgamation have been incurred by or to, or which but for the amalgamation might or would have arisen in relation to, the dissolved company or the directors thereof, shall be as valid and of as full force and effect in favour of, against or in relation to the amalgamated company as if the same had been executed, made or entered into by, with or to, or in relation to or had been incurred by or to or had arisen in relation to, the amalgamated company by name.

Saving conveyances, contracts &c.

**42.** All causes and rights of action or suit accrued before the time of amalgamation, and then in any manner enforceable by, for or against the dissolved company, shall be and remain as good, valid and effectual for or against the amalgamated company as they would or might have been for or against the dissolved company affected thereby, if the amalgamating act had not been passed.

Causes and rights of action reserved.

**43.** Nothing in the amalgamating act or in this part of this act shall cause the abatement, discontinuance or determination of or in anywise prejudicially affect any action, suit or other proceeding at law or in equity commenced by or against the dissolved company, either solely or jointly with any other company or with any person, before the time of amalgamation, and then pending; but the same may be continued, prosecuted or enforced by or against the amalgamated company, either solely or, as the case may require, jointly with such other company or with such person; and all persons committing offences against any of the provisions of any special act relating to the dissolved company before the amalgamation may be prosecuted, and all penalties incurred by reason of such offences may be sued for and recovered, in like manner in all respects as if the amalgamating act had not been passed,—the amalgamated company being in respect of all such matters considered as identical with the dissolved company.

Actions not to abate.

**44.** No submission to arbitration of any matter in dispute between the dissolved company and any other company or any person, under which any reference is pending and incomplete at the time of amalgamation, and no award theretofore made and then remaining in force, shall be revoked or prejudicially affected by anything in the amalgamating act or in this part of this act contained; but every such submission and award shall be as valid and effectual for or against the amalgamated company as it would have been for or against the dissolved company.

Saving submissions and awards relating to dissolved companies.

**45.** All works which the dissolved company is at the time of amalgamation authorized or bound to execute and complete, and which are not then executed or completed, may or shall (as the case may require) be executed or completed by the amalgamated company, and for that purpose the amalgamated company shall have and be subject to all the powers, rights and conditions which were conferred or imposed upon the dissolved company, and which but for the passing of the amalgamating act might have been exercised by or enforced against the dissolved company.

Unexecuted works of dissolved companies may be completed.

**46.** Where the dissolved company has under any special act entered into any contract for the purchase of or taken or used any lands, which at the time of amalgamation have not been effectually conveyed to the dissolved company, or the purchase-money in respect of which has not been duly paid by the dissolved company,—then and in every such case the contract, if in force at the time of amalgamation, shall thereafter be completed by, and such lands shall be conveyed to, the amalgamated company, or as the amal-

Contracts for land entered into by dissolved companies to be executed.

gamated company directs, and the purchase-money shall be paid and applied pursuant to the special acts relating to the dissolved company; and those acts shall, in relation to the completion of the contract and the purchase and conveyance of the lands, and the payment and application of the purchase-money in respect thereof, be read and construed as if the amalgamated company were the company named in the acts and contract.

Application of money paid into bank or to trustees.

**47.** Where any money has, before the time of amalgamation, been paid by the dissolved company, or is thereafter paid by the amalgamated company under any special act relating to the dissolved company, into the Bank of England, or into one of the incorporated or chartered banks in Scotland, or into the Bank of Ireland, or to any trustee or trustees, on account of the purchase of any lands or any interest therein, or for any compensation or satisfaction, or on any other account, such money, or the stocks, funds or securities in or upon which the same then is or thereafter may be invested by order of any court or otherwise, and the interest, dividends, and annual produce thereof, shall be applied and disposed of pursuant to such special act; and that and every other act shall, in relation to such money, stocks, funds or securities, or the interest, dividends or annual produce thereof, be read and construed as if the amalgamated company were the company therein named with reference to the same money, stocks, funds, securities, interest, dividends or annual produce.

Officers of dissolved companies to be accountable for books, &c.

**48.** All officers and persons who, at the time of amalgamation, have in their possession or under their control any books, documents, papers or effects belonging to the dissolved company, or to which the dissolved company would but for such dissolution have been entitled, shall be liable to account for and deliver up the same to the amalgamated company, or to such persons as the amalgamated company may appoint to receive the same, in the same manner, and subject to the same consequences on refusal or neglect as if such officers and persons had been appointed by and become possessed of such books, documents, papers or effects for the amalgamated company.

Officers of dissolved companies to be officers of amalgamated company.

**49.** All clerks, officers and servants who at the time of amalgamation are in the employment of the dissolved company shall thereupon become clerks, officers or servants, as the case may be, of the amalgamated company, with the same rights, and subject to the same obligations and incidents in respect of such employment as they would have had or been subject to as the clerks, officers or servants of the dissolved company, and shall so continue unless and until they respectively are duly removed from such employment by the amalgamated company, or until the terms of their employment are duly altered by the amalgamated company.

Books, &c., to be evidence.

**50.** All books and documents which would have been evidence in respect of any matter for or against the dissolved company shall be admitted as evidence in respect of the same or the like matter for or against the amalgamated company.

Resolutions of dissolved companies to remain in force.

**51.** All resolutions of any general meeting or board of directors of the dissolved company, or of any duly constituted and authorized committee thereof, so far as the same are applicable and remain in force, shall, notwithstanding the dissolution, continue to be operative, and shall apply to the amalgamated company, and to the directors, officers and servants of the amalgamated company, until duly revoked or altered by the amalgamated company or under their authority.

Payment of calls.

**52.** All calls made by the dissolved company, and not paid at the time of amalgamation, shall be payable to and may be enforced by the amalgamated company, as if such calls had been made by the amalgamated company.

**53.** All registers of shares, stock, mortgages and bonds of the dissolved company, and all registers of transfers thereof respectively, and all shareholders' and stockholders' address-books, and all certificates of shares or stock of and in the dissolved company, which are valid and subsisting at the time of amalgamation, shall continue to be valid and subsisting, and shall have the same operation and effect as before the dissolution, unless and until new or altered registers, books and certificates respectively are substituted in their stead; and all transfers, sales or dispositions of stock or shares made before the dissolution and not then completed shall have the same operation and effect as if made after the dissolution. Registers, book and certificates relating to dissolved companies to subsist until replaced.

**54.** All the byelaws, rules and regulations of the dissolved company relating to the management, use or control of their undertaking shall, notwithstanding the dissolution, continue to be in force and applicable to and in respect of the undertaking, and shall and may be enforced by and available to the amalgamated company in their own name, as well for the recovery of penalties as for all other purposes, as if the same respectively had been originally made by the amalgamated company, until the expiration of twelve months after the time of amalgamation, or until other byelaws, rules and regulations are duly made by the amalgamated company in their stead, whichever first happens. Bye-laws to remain in force

**55.** Notwithstanding the dissolution of the dissolved company, and the amalgamation, everything before the time of amalgamation done, suffered and confirmed respectively, under or by virtue of any special act relating to the dissolved company, shall be as valid as if the amalgamating act had not been passed; and the dissolution and amalgamation, and the amalgamating act, and this part of this act, respectively, shall accordingly be subject and without prejudice to everything so done, suffered and confirmed respectively, and to all rights, liabilities, claims and demands, present or future, which if the dissolution and amalgamation had not taken place and the amalgamating act had not been passed, would be incident to or consequent on anything so done, suffered and confirmed respectively; and with respect to all things so done, suffered and confirmed respectively, and to all such rights, liabilities, claims and demands, the amalgamated company shall to all intents represent the dissolved company; and the generality of this present provision shall not be deemed to be restricted by any other of the provisions of this part of this act, or by any provision of the amalgamating act that does not expressly refer to this present provision, and expressly restrict the operation thereof. General saving of rights and claims.

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## 26 & 27 VICT. CAP. 118.

*An Act for consolidating in One Act certain Provisions frequently inserted in Acts relating to the Constitution and Management of Companies incorporated for carrying on Undertakings of a Public Nature.* [28th July, 1863.

Whereas "The Companies Clauses Consolidation Act, 1845,"* and "The Companies Clauses Consolidation (Scotland) Act, 1845," † respectively, were passed in order to comprise in one general act such provisions relating to the constitution and management of joint stock companies incorporated for the purpose of carrying on undertakings of a public nature in England or Ireland, or in Scotland, respectively, as were at the times of the passing of

* Page 33, ante.
† 8 & 9 Vict. c. 17.

those acts usually introduced into acts of parliament relating to such companies: And whereas sundry provisions of the like nature, but not comprised in the said general acts respectively, are now frequently introduced into acts of Parliament relating to such companies, and it is expedient to comprise such last mentioned provisions also in one general act, such act to be applicable to England or Ireland, or to Scotland as the case may require, and that as well for the purpose of avoiding the necessity of repeating such provisions in the acts relating to such undertakings, as for insuring greater uniformity in the provisions themselves: Be it therefore enacted, by (&c., &c.), as follows:—

Short title.

**1.** This act may be cited as "The Companies Clauses Act, 1863."

Division of act into parts.

**2.** This act shall be deemed to be divided into four parts, as follows:—

Part I. relating to cancellation and surrender of shares (Sect. 3);

Part II. relating to additional capital (Sect. 12);

Part III. relating to debenture stock (Sect. 22);

Part IV. relating to change of name (Sect. 36).

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## PART I.

### CANCELLATION AND SURRENDER OF SHARES.

Application of Part I.

**3.** This part of this act shall apply to every company incorporated either before or after the passing of this act, which obtains a special act incorporating this part of this act.

Power to company to cancel forfeited shares.

* Page 38, ante.

**4.** Where any share of the capital of the company is after the passing of this act declared forfeited under and in pursuance of the provisions with respect to the forfeiture of shares for non-payment of calls contained in "The Companies Clauses Consolidation Act, 1845,"* and "The Companies Clauses Consolidation (Scotland) Act, 1845," respectively, and the forfeiture is confirmed by a meeting in accordance with the same provisions respectively, and notice of the forfeiture has been given,—then and in every such case, if the directors of the company are unable to sell the share for a sum equal to the arrears of calls and interest and expenses due in respect thereof, the company at any general meeting held not less than two months after such notice is given may, in case payment of the arrears of calls, interest and expenses due in respect thereof is not made by the registered holder of the share before the meeting is held, resolve that the share instead of being sold shall be cancelled, and the share shall thereupon be cancelled accordingly.

Evidence for cancellation of forfeited shares.

**5.** A declaration in writing made by some credible person, in England or Ireland before a justice, and in Scotland before any sheriff or justice, stating that a sum of money sufficient to pay the arrears of calls, interest and expenses due in respect of the share, could not at the time of the cancellation of the share be obtained for the same upon the stock exchange prescribed in the special act, and if no stock exchange is prescribed then upon the stock exchange, as to England of the city of London, and as to Scotland of the city of Edinburgh, and as to Ireland of the city of Dublin, shall be sufficient evidence of the fact so declared.

Payment of calls in arrear notwithstanding cancellation.

**6.** Where it is so resolved that any share shall be cancelled, the holder thereof shall from and after the passing of the resolution be precluded from all right and interest therein and in respect thereof; but the cancellation shall not affect the liability of the last registered holder of the share to pay to the company all arrears of calls, interest and expenses due in respect of the share at the time of the cancellation, or the power of the company to enforce payment thereof by action or otherwise.

7. Provided always, that if the company enforces the payment of the arrears of calls, interest and expenses under the last preceding provision, the value of the share at the time of the cancellation thereof shall be deducted from the amount so then due; provided also, that if payment of all arrears of calls, interest and expenses is made before such meeting as aforesaid is held, the share shall revert to the person to whom it belonged at the time of forfeiture, and shall be re-entered on the company's register accordingly.

Value of forfeited shares to be deducted from amount due in respect thereof.

8. Where any share is declared forfeited, or where any sum payable on any share remains unpaid, the company, with the consent in writing of the registered holder of the share, and with the sanction of a general meeting, may resolve that the share shall be cancelled, and immediately thereupon the share shall be cancelled, and all liabilities and rights with respect to the share shall thereupon be absolutely extinguished.

Company may cancel forfeited shares with consent of holders.

9. The company may from time to time accept, on such terms as they think fit, surrenders of any shares which have not been fully paid up.

Surrender of shares.

10. The company shall not pay or refund to any shareholder any sum of money for or in respect of the cancellation or surrender of any share.

No money to be paid for cancellation or surrender.

11. The company may from time to time, in lieu of any shares that have been cancelled or surrendered, issue new shares of such amounts as will allow the same to be conveniently apportioned or disposed of according to the resolution of any ordinary or extraordinary meeting of the company, and may from time to time fix the amounts and times of payment of the calls on any such new shares, and dispose thereof on such terms and conditions as may be so resolved upon: Provided, that the aggregate nominal amount of the new shares shall not exceed the aggregate nominal amount of the shares in lieu of which the new shares are issued, after deducting the amount actually paid up in respect of the shares cancelled or surrendered.

Power to create shares in lieu of cancelled, forfeited, &c., shares.

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## PART II. (*b*).

### ADDITIONAL CAPITAL.

### *New Ordinary Shares or Stock.*

12. Where any company, incorporated either before or after the passing of this act for the purpose of carrying on any undertaking, is authorized by any special act hereafter passed, and incorporating this part of this act, to raise any additional sum or sums by the issue of new ordinary shares, or by the issue of new ordinary stock, or (at the option of the company) by either of those modes,—then and in every such case the company, with the sanction of such proportion of the votes of the shareholders and stockholders entitled to vote in that behalf at meetings of the company, present (personally or by proxy) at a meeting of the company specially convened for the purpose, as is prescribed in the special act, and if no proportion is prescribed, then of three-fifths of such votes, may, for the purpose of raising the additional sum or sums, from time to time create and issue (according as the authority given by the special act extends to shares only, or to stock only, or to both) such new ordinary shares, of such nominal amount, and subject to the payment of calls of such amounts and at such times, as the company thinks fit, or such new ordinary stock as the company thinks fit.

Creation and issue of new ordinary shares or new ordinary stock

(*b*) See also 30 & 31 Vict. c. 127, s. 28, post.

*Preference Shares or Stock.*

Creation and issue of new preference shares or new preference stock.

**13.** Where any such company is authorized by any special act hereafter passed and incorporating this part of this act to raise any additional sum or sums by the issue of new preference shares, or by the issue of new preference stock, or (at the option of the company) by either of those modes,—then and in every such case the company, with the like sanction as aforesaid, may for the purpose of raising such additional sum or sums from time to time create and issue (according as the authority given by the special act extends to shares only, or to stock only, or to both) such new shares or new stock, either ordinary or preference, and either of one class and with like privileges, or of several classes and with different privileges, and of the same or different amounts, and respectively with any fixed, fluctuating, contingent, preferential, perpetual, terminable, deferred or other dividend or interest not exceeding the rate prescribed in the special act, and if no rate is prescribed then not exceeding the rate of five pounds per centum per annum, and subject (as to any such new shares) to the payment of calls of such amounts and at such times, as the company from time to time thinks fit:

Saving for previous preference shareholders.

Provided always, that any preference assigned to any shares or stock so issued under the special act shall not affect any guarantee, or any preference or priority in the payment of dividend or interest, on any shares or stock, that may have been granted by the company under or confirmed by any previous act, or that may be otherwise lawfully subsisting.

Preference shares to be entitled to dividends only out of the profits of each year.

**14.** The preference shares or preference stock so issued shall be entitled to the preferential dividend or interest assigned thereto, out of the profits of each year, in priority to the ordinary shares and ordinary stock of the company; but if in any year ending on the day prescribed in the special act, and if no day is prescribed, then on the thirty-first day of December, there are not profits available for the payment of the full amount of preferential dividend or interest for that year, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the company.

Terms, &c., to be stated on certificates.

**15.** The terms and conditions to which any preference share or preference stock is subject shall be clearly stated on the certificate of that preference share or portion of preference stock (*c*).

*General provisions as to new Shares, or Stock.*

Unissued stock may be cancelled.

**16.** If, after having created new shares or new stock, the company determines not to issue the whole of the new shares or new stock, they may cancel the unissued new shares or new stock.

If ordinary stock at a premium, new stock to be offered to existing ordinary shareholders.

**17.** If, at the time of the issue of new shares or new stock, the ordinary shares or ordinary stock of the company are or is at a premium, then, unless the company before the issue of the new shares or new stock otherwise determines, the new shares or new stock then issued shall be of such amount as will conveniently allow the same to be apportioned among the then holders of the ordinary stock and ordinary shares, respectively, in proportion, as nearly as conveniently may be, to the ordinary shares and ordinary stock held by them respectively, and shall be offered to them at par in that proportion: Provided, that it shall not be obligatory on the company so to apportion or offer any new shares or new stock unless the amount of every new share or portion of new stock to be so offered would if so apportioned be at least the sum prescribed in the special act, and if no sum is prescribed then at least ten pounds.

(*c*) See also 29 & 30 Vict. c. 108, s. 14, post.

**18.** The offer of new shares or new stock shall be made by letter under the hand of the treasurer or secretary of the company given to every such shareholder or stockholder as aforesaid, or sent by post addressed to him according to his address in the shareholders' or stockholders' address book, or left for him at his usual or then last named place of abode in England, Scotland or Ireland (as the case may require); and every such offer made by letter sent by post shall be considered as made on the day on which the letter in due course of delivery ought to be delivered at the place to which it is addressed. Offer to be made by letter.

**19.** The new shares or portions of new stock so offered shall vest in and belong to the shareholders or stockholders who accept the same or their nominees. New stock to vest on acceptance.

**20.** If any shareholder or stockholder fails for the time prescribed in the special act, and if no time is prescribed then for one month, after the offer to him of new shares or new stock, to signify his acceptance of the same or any part thereof, then and in every such case at the expiration of that period he shall be deemed to have declined the offer of such new shares or new stock or such part thereof as aforesaid, and the same may be disposed of by the company as hereinafter provided: Failure to accept

Provided, that where a shareholder or stockholder, from absence abroad or other cause satisfactory to the directors of the company, omits to signify within the time aforesaid his acceptance of the new shares or new stock offered to him, the directors, if they think proper, may permit him to accept the same, notwithstanding that such time has elapsed. Power to enlarge time for acceptance.

**21.** Subject to the foregoing provisions, the company may from time to time dispose of new shares and new stock at such times, to such persons, on such terms and conditions, and in such manner as the directors think advantageous to the company, *but so that not less than the full nominal amount of any share or portion of stock be payable or paid in respect thereof* (*d*). Power to dispose of unappropriated stock.

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## PART III.

### Debenture Stock (*e*).

**22.** Where any company, incorporated either before or after the passing of this act for the purpose of carrying on any undertaking, is authorized by any special act hereafter passed, and incorporating this part of this act, to create and issue debenture stock,—then and in every such case the company, with the sanction of such proportion of the votes of the shareholders and stockholders entitled to vote in that behalf at meetings of the company, present (personally or by proxy) at a meeting of the company specially convened for the purpose, as is prescribed in the special act, and if no proportion is prescribed, then of three-fifths of such votes, may from time to time raise all or any part of the money which for the time being they have raised, or are authorized to raise, on mortgage or bond, by the creation and issue, at such times, in such amounts and manner, on such terms, subject to such conditions, and with such rights and privileges, as the company thinks fit, of stock to be called debenture stock, instead of and to the same amount as the whole or any part of the money which may for the time being be owing by the company on mortgage or bond, or which they may from time to time have power to raise on mortgage or bond, and may attach to the stock so created such fixed and perpetual preferential interest *not exceeding the rate* Creation and issue of debenture stock.

(*d*) Words in italics repealed, 30 & 31 Vict. c. 127, s. 27, *post*.

(*e*) See 32 & 33 Vict. c. 48, *post*.

*prescribed in the special act, and if no rate is prescribed, then not exceeding the rate of four pounds per centum per annum* (*f*), payable half-yearly or otherwise, and commencing at once, or at any future time or times, when and as the debenture stock is issued, or otherwise, as the company thinks fit.

Priority of debenture stock.

**23.** Debenture stock, with the interest thereon, shall be a charge upon the undertaking of the company, prior to all shares or stock of the company, and shall be transmissible and transferable in the same manner and according to the same regulations and provisions as other stock of the company, and shall in all other respects have the incidents of personal estate.

Priority of interest on debenture stock.

**24.** The interest on debenture stock shall have priority of payment over all dividends or interest on any shares or stock of the company, whether ordinary or preference or guaranteed, and shall rank next to the interest payable on the mortgages or bonds for the time being of the company legally granted before the creation of such stock; but the holders of debenture stock shall not, as among themselves, be entitled to any preference or priority.

Payment of arrears may be enforced by appointment of receiver or judicial factor.

**25.** If within thirty days after the interest on any such debenture stock is payable the same is not paid, any one or more of the holders of the debenture stock holding, individually or collectively, the sum in nominal amount thereof prescribed in the special act, and if no sum is prescribed, then a sum equal to one-tenth of the aggregate amount which the company is for the time being authorized to raise by mortgage, by bond, and by debenture stock, or the sum of ten thousand pounds, whichever of the two last-mentioned sums is the smaller sum, may (without prejudice to the right to sue in any court of competent jurisdiction for the interest in arrear) require the appointment in England or Ireland of a receiver, and in Scotland of a judicial factor.

Mode of appointing receiver or judicial factor.

**26.** Every such application for a receiver shall be made to two justices, and every such application for a judicial factor shall be made to the court of session; and on any such application the justices or court (as the case may be), by order in writing, after hearing the parties, may appoint some person to receive the whole or a competent part of the tolls or sums liable to the payment of the interest, until all the arrears of interest then due on the debenture stock, with all costs, including the charges of receiving the tolls or sums, are fully paid; and upon such appointment being made all such tolls or sums shall be paid to and received by the person so appointed; and all money so received shall be deemed so much money received by or to the use of the several persons interested in the same, according to their several priorities.

The receiver or judicial factor shall distribute rateably and without priority, among all the proprietors of debenture stock to whom interest is in arrear, the money which so comes to his hands, after applying a sufficient part thereof in or towards satisfaction of the interest on the mortgages and bonds of the company.

As soon as the full amount of interest and costs has been so received, the power of the receiver or judicial factor shall cease, and he shall be bound to account to the company for his acts or intromissions or the sums received by him, and to pay over to the company any balance that may be in his hands.

Arrears may be recovered by action.

**27.** If the interest on debenture stock is in arrear for thirty days next after any of the respective days whereon the same is payable, the holder for the time being thereof may (without prejudice to his power to apply for the appointment of a receiver or judicial factor) recover the arrears with costs

(*f*) Repealed, 30 & 31 Vict. c. 127, s. 24, post.

by action or suit against the company in any court of competent jurisdiction.

**28.** The company shall cause entries of the debenture stock from time to time created to be made in a register to be kept for that purpose, wherein they shall enter the names and addresses of the several persons and corporations from time to time entitled to the debenture stock, with the respective amounts of the stock to which they are respectively entitled; and the register shall be accessible for inspection and perusal at all reasonable times to every mortgagee, bondholder, debenture stockholder, shareholder, and stockholder of the company, without the payment of any fee or charge. Registration of debenture stock.

**29.** The company shall deliver to every holder of debenture stock a certificate stating the amount of debenture stock held by him; and all regulations or provisions for the time being applicable to certificates of shares in the capital of the company shall apply, mutatis mutandis, to certificates of debenture stock. Certificate.

**30.** Nothing herein or in the special act authorizing the issue of debenture stock contained shall in any way affect any mortgage or bond at any time legally granted by the company before the creation of such stock, or any power of the company to raise money on mortgage or bond, but the holders of all such mortgages and bonds shall, during the continuance thereof respectively, be entitled to the same priorities, rights, and privileges in all respects as they would have been entitled to if the special act authorizing the issue of debenture stock had not been passed. Mortgages not affected by this act.

**31.** Debenture stock shall not entitle the holders thereof to be present or vote at any meeting of the company, or confer any qualification, but shall, in all respects, not otherwise by or under this act or the special act provided for, be considered as entitling the holders to the rights and powers of mortgagees of the undertaking other than the right to require repayment of the principal money paid up in respect of the debenture stock. Holders of debenture stock not to vote.

**32.** Money raised by debenture stock shall be applied exclusively either in paying off money due by the company on mortgage or bond, or else for the purposes to which the same money would be applicable if it were raised on mortgage or bond instead of on debenture stock. Application of money raised.

**33.** Separate and distinct accounts shall be kept by the company, showing how much money has been received for or on account of debenture stock, and how much money borrowed or owing on mortgage or bond, or which they have power so to borrow, has been paid off by debenture stock, or raised thereby, instead of being borrowed on mortgage or bond. Separate accounts of debenture stock.

**34.** The powers of borrowing and re-borrowing by the company shall, to the extent of the money raised by the issue of debenture stock, be extinguished. Borrowing powers, extinction of.

**35.** The provisions of this part of this act shall be deemed to apply to mortgage preference stock, and to funded debt, as the case may require, in all respects as if mortgage preference stock or funded debt were mentioned throughout this part of this act wherever debenture stock is mentioned therein. Mortgage preference stock.

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## PART IV.

### CHANGE OF NAME.

**36.** Where by any special act hereafter passed and incorporating this part of this act the name of any company incorporated either before or after the passing of this act for the purpose of carrying on any undertaking is changed,—then and in every such case from the passing of the special act the company by their new name shall have and may exercise the powers Continuance of powers on change of name

then vested in the company by their original name; and all acts relating to the company by their original name shall be read and interpreted as if throughout those acts, wherever the original name of the company or any reference to the company by their original name occurs, the new name of the company or a reference to the company by their new name were substituted.

Actions, &c., not to abate.

37. No action, suit, bill, process, writ, indictment, information or other proceeding, whether civil or criminal, which at or immediately before the passing of the special act is commenced and is then pending,—either at the suit or instance of the company, by their original name, against any other corporation or any person, or at the suit or instance of any other corporation or any person against the company, by their original name,—shall abate, determine, or be otherwise impeached or affected for or by reason of the change of the name of the company; nor shall any notice, tender, requisition, warrant, summons, pleading, civil or criminal writ or other process, record, deed, contract, agreement, writing or instrument then or thereafter to be made, issued, written or commenced, be deemed to be vacated, discharged, invalidated, prejudiced or affected by reason of the company or their undertaking being therein respectively called by the original name of the company or undertaking; and it shall not be necessary in any bill, suit, indictment, information, proceeding, notice, tender, requisition, warrant, summons, pleading, civil or criminal writ, or other process, or in any record, deed, contract, agreement, writing or other instrument or matter, to aver that the company had been called or known for any period by the original name of the company, or that their undertaking had been called or known within that period by the original name of the undertaking, and that by the special act effecting the change the names of the company and their undertaking were changed, and that after the passing of that special act the company had been called or known by their new name, and their undertaking by its new name; but it shall be deemed true, lawful, and sufficient therein to aver the style and describe the company by their new name, and their undertaking by its new name, in the same manner as if the company had been originally incorporated, called, or known by their new name, and as if their undertaking had been originally called or known by its new name.

General saving of rights.

38. Notwithstanding the change of the name of the company, everything before the passing of the special act effecting the change done, suffered or confirmed under or by virtue of any other act shall be as valid as if the special act effecting the change were not passed; and the change of name and last-mentioned special act respectively shall accordingly be subject and without prejudice to everything so done, suffered or confirmed before the passing of the last-mentioned special act, and to all rights, liabilities, claims and demands, then present or future, which, if the change of name had not happened and such last-mentioned special act had not been passed, would be incident to or consequent on anything so done, suffered or confirmed.

Contracts, &c., preserved.

39. Notwithstanding the change of the name of the company, all deeds, instruments, purchases, sales, securities and contracts before the passing of the special act effecting the change made under any other act, or with reference to the purposes thereof, shall be as effectual to all intents in favour of, against and with respect to the company as if the name of the company had remained unchanged.

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## 27 & 28 VICT. CAP. 71.

*An Act for amending and extending the Railways (Ireland) Act,* 1851, *and the Railways (Ireland) Act,* 1860. [25th July, 1864.

Whereas it is expedient that "The Railways Act (Ireland), 1851," and "The Railways Act (Ireland), 1860," should be amended, and the provisions thereof extended, as hereinafter mentioned: Be it therefore enacted, by (&c. &c.), as follows:

The company, if dissatisfied with award, in cases exceeding 500*l*. may traverse

**1.** In all cases where the amount of money which the arbitrator appointed under the provisions of the said acts, or either of them, shall have awarded to be paid by the company to any person in respect of any estate or interest in lands shall exceed the sum of five hundred pounds, it shall be lawful for the company, if dissatisfied with such award, upon giving to such person within ten days next after the date of such award notice in writing of their intention to appeal therefrom, to have a traverse entered by the company in the crown book in respect of such award, at the same time and in like manner in all respects as are provided by the aforesaid acts with respect to traverses taken by persons dissatisfied with any award, and the like proceedings shall be taken with respect to a traverse so taken by the company, and the verdict of the jury upon such traverse shall have the like effect as in the case of a traverse taken by a person so dissatisfied: Provided always, that in all cases where a traverse shall be so taken by the company, if the verdict of the jury shall be for a sum less than that awarded by the arbitrator, the company shall nevertheless pay to the other party to such traverse such sum not exceeding twenty pounds for the costs of such traverse as the judge before whom the same is tried shall direct; and in case the verdict of the jury shall be for a sum equal to or exceeding the award of the arbitrator, then and in that case the company shall pay to the other party the costs of the traverse, such costs to be taxed and ascertained in the same manner as costs are by law ascertained on the trial of an issue from the Court of Queen's Bench.

Power to have special jury.

**2.** In all cases of traverse taken upon an award of the arbitrator, the company or person appellant shall be entitled to have the same tried by a special jury upon giving notice in writing to the respondent in such traverse of their or his intention that the same shall be so tried ten days previous to the assizes or term respectively (as the case may be), and the respondent in such traverse shall be so entitled upon giving the like notice six days before the said assizes or term: provided that any judge of any of the superior courts sitting in chamber or at nisi prius may at any time order that such traverse shall be tried by a special jury upon such terms as he may think fit.

Notice to sheriff of special jury.

**3.** Where notice has been given to try by special jury either party may, six days before the first day of the assizes or of the term, as the case may be, give notice to the sheriff that such action is to be tried by a special jury; and in case no such notice has been given, or the notice has not been given in sufficient time, no special jury need be summoned to attend, and such traverse shall be tried before a common jury unless otherwise ordered by the judge before whom the same shall be tried.

Either party to traverse entitled to a view.

**4.** Either party to such traverse shall be entitled to have the premises viewed by the jury, and for that purpose it shall be sufficient to obtain an order of any such judge as aforesaid directing a view to be had, and thereupon all such proceedings shall be had as are directed by "The Common Law Procedure Amendment Act (Ireland), 1853," section 116, with respect to view juries.

Either party may appeal from ruling of judge.

**5.** In case either party shall be dissatisfied at the trial of such traverse with the ruling of the judge upon any matter of law, he shall be entitled to appeal from such ruling in the manner herein contained.

Mode of appeal. Note of objection.

**6.** The party so objecting shall deliver to the judge at the time of such trial a note in writing, stating such objection and the grounds thereof, and shall and may prepare a case, stating the facts and matters appearing in evidence so far as may be necessary, and the ruling of the judge, and the objections to such ruling, and such case may be accompanied by an appendix containing copies of the material documents; and all proceedings shall be taken with respect to the settlement of such case, and within the same period, as are taken in Ireland with respect to bills of exceptions to the direction of a judge at nisi prius.

Special case, when settled and signed by the judge, to be filed.

**7.** Such special case and the appendix thereto, when settled and signed by the said judge, shall be filed in such one of the superior courts as the said judge shall direct, and such court shall proceed to adjudicate on the same in like manner as upon a special case stated under the said Common Law Procedure Act, and the adjudication of such court shall be final.

Court may direct an issue or other inquiry.

**8.** It shall be lawful for such court, upon the hearing of such special case, to direct any issue to be tried, or any valuation or other inquiry to be made, or the said case to be amended in any way, or other act to be done, which such court may deem proper, in order finally to adjudicate upon and determine the rights of the parties.

Judgment.

**9.** The judgment or order of the said court upon such special case shall be equivalent to a judgment of the said court in a personal action between the parties.

Costs of appeal to be paid by company where appellants.

**10.** In all cases where the company shall take any proceedings by way of appeal as aforesaid the costs thereof shall be ordered to be paid by them: but in cases where the company shall be respondent in such appeal the costs of such proceedings shall follow the event, and be included in the ultimate judgment of the court of appeal.

Compensation in respect of lands temporarily occupied.

**11.** The amount of the purchase-money or other compensation payable by the company in respect of lands temporarily occupied by them during the construction of the works, in case the parties shall differ about the same, shall be determined in manner following: The person claiming such purchase-money or compensation shall deliver to the arbitrator a short statement in writing, setting forth the nature and amount of such claim, and shall also and at the same time deliver to the company a copy of the same; and the like proceedings in all respects shall be had with respect to such claim as are by the aforesaid acts or by this act directed to be taken with respect to a claim for compensation for lands taken or injuriously affected by the execution of the works: and the arbitrator shall have full jurisdiction to entertain such claim, and determine the amount payable in respect thereof, although the lands so temporarily occupied may not be contained in the maps and plans deposited with him; and the said arbitrator may include the amount so ascertained by him as last aforesaid in his general award, or may make a special award in relation to the same in case it shall be necessary or convenient so to do, such special award to be made in the like manner, and to be subject to the like provisions in all respects as such general award; and all the enactments expressly, or by reference or incorporation, contained in the said acts or in this act with respect to purchase-money or compensation ascertained by the award of the arbitrator in respect of lands permanently taken by the company shall be applicable to the purchase-money or compensation ascertained as aforesaid by the arbitrator in respect of lands so temporarily occupied as aforesaid.

**12.** In all cases where costs of conveyances shall be payable by the company such costs shall be taxed by one of the taxing masters of the Court of Chancery in Ireland upon the requisition of such company; and all the provisions of any act of Parliament, and all rules and regulations of the courts of law and equity in Ireland relating to the taxation of costs shall be deemed applicable to such costs so payable by the company in like manner in all respects as if the said company were directly chargeable therewith. Taxation of costs.

**13.** In the construction of "The Railways Act (Ireland), 1851," and of "The Railways Act (Ireland), 1860," and of this act, the expression "company" shall include any parties, whether company, undertakers, commissioners, drainage board, corporation, or private persons, empowered to execute any work or undertaking, and to take or use any lands, mills or other hereditaments compulsorily under the provisions of any general or special act of Parliament, already or hereafter incorporating the said recited acts and this act or any of such acts. Meaning of "company."

**14.** When any railway company shall not take possession of or pay for any land within one fortnight from the lodgment of the final award of the arbitrator with the clerk of the peace, the said company shall, before taking possession of the same, in addition to the sum awarded by the arbitrator, pay to the occupant of any land to be taken the value of any crop existing upon or in the land at the time of taking possession of same, and which has not been included in said award, such value to be determined by any three justices of the petty sessions district in which such lands may be situated, one to be named by the railway company, one by the occupant of such land, and the third by the two justices so named. If company do not take possession within a fortnight of final award, value of crop to be added.

**15.** Every railway company in Ireland shall cause proper fences to be made and maintained for separating the land taken for the use of the railway from the adjoining lands not taken, and shall also provide and maintain proper drains or other passages either over or under or by the sides of the railway to convey water from or to the lands lying near or affected by the railway, in the same manner and to the same extent as it was conveyed from or to the said lands before the making of the railway, or as near thereto as the case may be; and in case any owner or occupier of such land shall complain of the want of or insufficiency of any such fences, drains or passages, it shall be lawful for such owner or occupier, within five years after the completion of the works of any railway and the opening of the railway for public use, to present a memorial to the commissioners of public works in Ireland stating the ground of his complaint, and thereupon the commissioners shall inquire into the matter of such complaint, and, if they shall so think fit, the said commissioners shall appoint an arbitrator to hear and determine the matter of the said complaint. Fences and drains, company may be called upon to make within five years. Reference.

**16.** The arbitrator so appointed shall have and exercise all the powers vested in any arbitrator appointed under "The Railways (Ireland) Acts, 1851 and 1860," and shall proceed to investigate the said complaint at some convenient place to be named by the said commissioners of public works, after giving ten days' notice of the time and place of meeting to the memorialists and to the railway company, and his award may be traversed in the same manner as any award made by an arbitrator appointed under "The Railways (Ireland) Acts, 1851 and 1860," and if not traversed shall be final; and the costs of the said arbitration and of the said arbitrator shall be paid in the same manner as the costs of an arbitration or arbitrator under "The Railways (Ireland) Acts, 1851 and 1860." Arbitrator to have powers of arbitrator appointed under Acts of 1851 and 1860.

Fences, &c., to be made, but not so as to obstruct railway.

**17.** The company shall make all such fences, drains and passages as by the award of the said arbitrator they shall be directed to make; but no company shall be required to make the same in such a manner as will prevent or obstruct the working or using of the railway, nor shall they be required to make any fence, drain or passage in respect of which the owner and occupier, or any former owner and occupier, shall have agreed to receive and shall have been paid compensation in lieu of the making of the works themselves.

Acts of 1851, 1860, and this act, to be read together.

**18.** "The Railways Act (Ireland), 1851," and "The Railways Act (Ireland), 1860," and this act, shall be construed together as one act; and this act, together with the said acts, shall be held to be incorporated with those acts in any act already or hereafter incorporating those acts or any of them.

Short title.

**19.** This act may be cited as "The Railways Act (Ireland), 1864."

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## 27 & 28 VICT. CAP. 95.

*An Act to amend the Act Ninth and Tenth Victoria, Chapter Ninety-three, for compensating the Families of Persons killed by Accident.* [29th July, 1864.

* Ante, p 142.

Whereas by 9 & 10 Vict. c. 93,* it is amongst other things provided, that every such action as therein mentioned shall be for the benefit of the wife, husband, parent and child of the person whose death shall have been so caused as therein mentioned, and shall be brought by and in the name of the executor or administrator of the person deceased: And whereas it may happen by reason of the inability or default of any person to obtain probate of the will or letters of administration of the personal estate and effects of the person deceased or by reason of the unwillingness or neglect of the executor or administrator of the person deceased to bring such action as aforesaid, that the person or persons entitled to the benefit of the said act may be deprived thereof; and it is expedient to amend and extend the said act as hereinafter mentioned: Be it therefore enacted, by (&c. &c.), as follows:

When no action brought in six months by executor, then action may be brought by persons beneficially interested.

**1.** If and so often as it shall happen at any time or times hereafter in any of the cases intended and provided for by the said act that there shall be no executor or administrator of the person deceased, or that there being such executor or administrator no such action as in the said act mentioned shall within six calendar months after the death of such deceased person as therein mentioned have been brought by and in the name of his or her executor or administrator, then and in every such case such action may be brought by and in the name or names of all or any of the persons (if more than one) for whose benefit such action would have been, if it had been brought by and in the name of such executor or administrator; and every action so to be brought shall be for the benefit of the same person or persons, and shall be subject to the same regulations and procedure, as nearly as may be, as if it were brought by and in the name of such executor or administrator.

Money paid into court may be paid in one sum, without regard to its division into shares.

**2.** And whereas by the second section of the said act it is provided that the jury may give such damages as they may think proportioned to the injury resulting from such death to the parties respectively for whom and whose benefit such actions shall be brought, and the amount so recovered,

after deducting the costs not recovered from the defendant, shall be divided between the before-mentioned parties in such shares as the jury shall by their verdict direct: Be it enacted and declared, That it shall be sufficient, if the defendant is advised to pay money into court, that he pay it as a compensation in one sum to all persons entitled under the said act for his wrongful act, neglect or default, without specifying the shares into which it is to be divided by the jury; and if the said sum be not accepted, and an issue is taken by the plaintiff as to its sufficiency, and the jury shall think the same sufficient, the defendant shall be entitled to the verdict upon that issue. If not accepted, defendant entitled to verdict on the issue.

**3.** This act and the said act shall be read together as one act. This and recited act to be read as one.

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## 27 & 28 VICT. CAP. 120.

*An Act to facilitate in certain Cases the obtaining of further Powers by Railway Companies.* [29th July, 1864.

"Whereas it is expedient that in certain cases railway companies be enabled to obtain further powers on complying with the conditions of a general act of parliament, without being obliged to procure in each case a special act:" Be it therefore enacted by (&c. &c.), as follows:

### *Preliminary.*

**1.** This act may be cited as "The Railway Companies Powers Act, 1864." Short title.

**2.** In this act— Interpretation of terms.

The term "railway" includes works connected with or for the purposes of a railway, and also a railway authorized to be but not actually constructed:

The term "railway bill" means a bill pending in or intended to be introduced into either house of parliament, having for its object or one of its objects to authorize the making of a railway:

The term "the Companies Clauses Acts" means, so far as the enactment in which that term is used relates to England or Ireland, or to a certificate to be operative in England or Ireland, "The Companies Clauses Consolidation Act, 1845;" * and so far as the same relates to Scotland, or to a certificate to be operative in Scotland, "The Companies Clauses Consolidation (Scotland) Act, 1845;" together with in each case "The Companies Clauses Act, 1863:" † * Ante, p. 33.

The term "The Board of Trade" means the lords of the committee for the time being of her Majesty's privy council appointed for the consideration of matters relating to trade and foreign plantations. † Ante, p. 213.

### *Description of Cases within this Act.*

**3.** This act shall take effect and apply in each of the cases following (*g*); namely, Act to apply to working agreements.

I.—Where a railway company are desirous that authority should be given to themselves and some other railway company or companies to enter

(*g*) And also in the cases mentioned in 31 & 32 Vict. c. 119, s. 38, post.

into an agreement with respect to all or any of the matters following (*h*); namely,

The maintenance and management of the railways of the companies respectively, or of any one or more of them, or of any part thereof respectively;

The use and working of the railways or railway, or of any part thereof, and the conveyance of traffic thereon;

The fixing, collecting, and apportionment of the tolls, rates, charges, receipts, and revenues levied, taken, or arising in respect of traffic;

The joint ownership, maintenance, management and use of a station or other work; or the separate ownership, maintenance, management and use of several parts of a station or other work:

Superfluous lands.

II.—Where a railway company are desirous of obtaining an extension of the time limited for the sale by them of superfluous lands:

Additional capital.

III.—Where a railway company incorporated by special act or by certificate under "The Railways Construction Facilities Act, 1864" (*i*), are desirous of obtaining authority to raise additional capital.

*Application for Certificate.*

Application for certificate to Board of Trade.

**4.** In any such case the company, if desirous to obtain a certificate under this act, shall proceed as follows (*k*); namely,

(1.) They shall apply to the board of trade for a certificate under this act:

(2.) They shall lodge at the office of the board of trade a draft of the certificate as proposed by them:

(3.) They shall publish notice of the application according to the general rules under this act.*

* Page 230.

Board to inquire if requirements as to notice complied with;

**5.** As soon as conveniently may be after the time for completion of the required notice, the board of trade shall proceed to inquire whether the company have complied with the requirements of the general rules respecting notice.

and to consider objections.

**6.** The board of trade, before settling a draft of a certificate, shall take into consideration any representation made to them, and shall duly inquire into the merits of any objection brought before them, respecting the application.

[Sects. 7, 8. *On railway or canal company affected giving notice of opposition, proceedings before board of trade to cease, and further proceedings to be in parliament.* Repealed, 33 & 34 Vict. c. 19, s. 2, post. See now sect. 3 of that act.]

*Settlement of Draft Certificate.*

Power to Board of Trade to settle certificate.

**9.** Where the board of trade proceed on the application, then, on being satisfied that the company have complied with the requirements of the general rules respecting notice, they may, if they think fit, settle a draft of a certificate, certifying to the effect following; namely,

Working agreement.

In the first-mentioned case, that the companies in the certificate specified are authorized to agree among themselves with respect to all or any of the matters aforesaid in the certificate specified;

(*h*) See also 26 & 27 Vict. c. 92, s. 22, et seq., ante, p. 206.

(*i*) Post, p. 232.

(*k*) See also 31 & 32 Vict. c. 119, s. 35.

In the secondly-mentioned case, that the time limited for the sale by the company of superfluous lands is extended as in the certificate specified ; Superfluous land.

In the thirdly-mentioned case, that the company are authorized to raise, as capital, for the purposes of the certificate, such additional sum of money as therein limited, by the issue of new shares or new stock, either ordinary or preference, or partly ordinary and partly preference, or partly in that mode and partly by borrowing on mortgage, at the option of the company, or as may be prescribed in the certificate, and with power to create and issue debenture stock. Additional capital.

**10.** The board of trade may (subject to the provisions of this act, and having regard to the provisions of any special act relating to any company empowered by a certificate), insert in the certificate such provisions as they, according to the circumstances of the case, deem necessary or proper for better effectuating the purposes of the certificate, and the same shall be deemed to all intents part of the certificate. Insertion of conditions in certificate.

**11.** The certificate may be in the form set forth in the schedule to this act, with such provisions as aforesaid. Form of certificate.

*Submission of Draft Certificate to Houses of Parliament.*

**12.** The board of trade shall lay the draft certificate settled by them before both houses of parliament within seven days after the same is settled, if parliament is then sitting, or if not, then within seven days after the next meeting of parliament, but not latter in any year than the first day of June. Draft certificate to be laid before Parliament.

**13.** On the draft certificate being settled the promoters shall give notice thereof according to general rules under this act. Notice.

**14.** If either house of parliament within six weeks after the draft of a certificate settled by the board of trade is laid before that house resolves that the certificate ought not to be made, the same shall not be further proceeded with. Veto of Parliament.

*Issue and Publication of Certificate.*

**15.** If neither house of parliament within the period aforesaid thinks fit to resolve that the certificate ought not to be made, then as soon as the period of six weeks after the laying of the draft certificate before both houses of parliament has expired the board of trade may make and issue a certificate in conformity with such draft. If no veto, Board of Trade may issue certificate.

**16.** The certificate shall be published as follows ; namely, Publication of certificate.

Where one company only is thereby empowered, then in the London, Edinburgh or Dublin Gazette, according as the head office of the company is situate in England, Scotland or Ireland :

Where two or more companies are thereby empowered, then in one or more of the gazettes, according as the several head offices of the companies respectively are situate in England, Scotland and Ireland respectively.

*Effect of Certificate.*

**17.** As from the time (not being prior to such publication) in the certificate prescribed, and if none is prescribed, then as from the time of such publication, the certificate shall have the same force and operation, and shall be as absolutely valid and conclusive to all intents as if the contents thereof (taken in conjunction with this act) had been expressly enacted by parliament ; and the validity of the certificate shall not be impeached on account of any alleged informality in any court or elsewhere. Operation of certificate as special act.

Judicial notice

**18.** The certificate shall be judicially noticed without being specially pleaded.

Interpretation.

**19.** Terms used in the certificate shall have the same meanings as they have when used in this act.

Incorporation of Clauses Acts.

**20.** There shall be incorporated with the certificate (which shall for this purpose be deemed the special act)—

In the first-mentioned case, Part III. of "The Railways Clauses Act, 1863." *

Ante, p 206

In the thirdly-mentioned case, the Companies Clauses Acts (*l*).

Rule as to short distances

**21.** In the first-mentioned case, during the continuance of any agreement for the joint working of any two railways, in the calculation of tolls and charges for short distances in respect of traffic conveyed on both railways, the distances traversed shall be reckoned continuously on such railways as if they were one railway.

Restriction as to issue of shares.

**22.** It shall not be lawful for any company empowered by a certificate under this act to issue any share created under the authority of the certificate, nor shall any such share vest in the person accepting the same, unless and until a sum not being less than one-fifth part of the amount of such share is paid up in respect thereof.

Restrictions on borrowing, &c.

**23.** In the thirdly-mentioned case the company, whether incorporated by special act or by certificate, shall be subject to the following restrictions; namely,

(1). They shall not exercise any power of borrowing money under the certificate until the whole of the share capital authorized by the certificate is subscribed for or taken, and until one-half thereof is actually paid up, and until they prove to the justice who is to certify under section forty * of "The Companies Clauses Consolidation Act, 1845," or (in Scotland) to the sheriff, who is to certify under section forty-two of "The Companies Clauses Consolidation (Scotland) Act, 1845," as the case may be, before he so certifies, that shares for the whole of the capital are issued and accepted, and that not less than one-fifth part of the amount of each separate share has been paid up on account thereof before or at the time of the issue or acceptance thereof, and that all such shares are taken in good faith, and are held by the subscribers or their assigns, those subscribers or their assigns being legally liable for the same (of which matters the certificate of the justice or sheriff shall be sufficient evidence):

* Ante, p. 40.

(2.) They shall not borrow a larger sum in the whole than one-third of the amount of the share capital authorized by the certificate:

(3.) They shall not, out of money raised under the certificate by calls or borrowing pay interest or dividend to a shareholder, on the amount of calls made on his shares, whether created under the certificate or otherwise (but this provision shall not prevent them paying to a shareholder under the certificate such interest or money advanced by him beyond the amount of calls actually made as is allowed by the Companies Clauses Acts):

(4.) They shall not, out of money so raised, pay or deposit any money that may be required to be paid or deposited in relation to any application to parliament or the board of trade:

(5.) They shall apply every part of the money so raised only for the purposes for which it is by the certificate authorized to be applied.

(*l*) See sect. 2, ante, p. 225.

*Miscellaneous.*

**24.** Nothing in this act shall make it obligatory on the board of trade to settle a draft of a certificate in any case, if it appears to the board of trade for any reason that the application for a certificate should not be complied with. Power to Board of Trade to reject application.

**25.** Nothing in the certificate shall exempt any railway to which it relates, or the company to whom that railway belongs, from the provisions of any general act of parliament relating to railways, or to the better audit of the accounts of railway companies, passed before or after the issuing of the certificate, or from any revision and alteration under the authority of parliament of the maximum tolls and charges allowed to be taken in respect of that railway. Nothing to exempt railways from operation of general acts.

**26.** A certificate may be made under this act and "The Railways Construction Facilities Act, 1864," jointly, and in any such case the forms of certificate given in this act and the said act may be adapted to the circumstances of the case. Certificate under this and Railways Construction Act.

**27.** Where, in case the company were proceeding by a railway bill instead of under this act, the approval of the bill in any manner by the members of the company would be required under the standing orders of either house of parliament for the time being in force (*m*), the board of trade shall not issue a certificate without being satisfied that the members of the company have in like manner approved of the application to the board of trade. Approval by members of company required, as under Standing Orders.

**28.** Subject and according to the restrictions and provisions of this act, the board of trade on the application of the company may from time to time amend, extend or vary by certificate any certificate issued under this act, and may by certificate revoke a previous certificate issued under this act. Board of Trade may amend or revoke certificate.

**29.** If in any case it is made to appear to the board of trade that any error has been committed in a certificate or in relation thereto, the board of trade may, subject and according to the restrictions and provisions of this act, on the application of the company, body or person affected by the error, and on notice to the company or companies empowered by the certificate, correct the error by a further certificate. Power to correct error.

**30.** A copy of the London or Edinburgh or Dublin Gazette containing a certificate or a copy of a certificate purporting to be printed by the printers of the London, Edinburgh, or Dublin Gazette, shall be conclusive evidence of the certificate and of the due publication thereof, without any proof of the gazette or without any proof of the copy having been in fact so printed, as the case may be. Proof of certificate.

**31.** Every company empowered by a certificate shall at all times keep at their head office copies of the certificate printed by the printers of the gazette or one of the gazettes in which the same was published, in such form as general rules direct, to be sold to all persons desiring to buy the same at a price not exceeding one shilling for each copy. Copies of certificate for sale.

If any company fail to comply with this provision they shall be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for every day during which such failure continues after the first penalty is incurred. Penalty.

**32.** The provisions of this act relative to the first-mentioned case and to the secondly-mentioned case respectively shall extend and apply, mutatis mutandis, to the proprietors of a railway although not incorporated as a company. Proprietors not incorporated.

**33.** Penalties under this act or under a certificate, the recovery and application whereof are not otherwise provided for, shall be recovered and Penalties.

(*m*) See especially the "Wharncliffe Order," L. S. O. 62; C. S. O. 74.

* Page 129, ante.

applied as penalties under "The Railways Clauses Consolidation Act, 1845,"* and "The Railways Clauses Consolidation (Scotland) Act, 1845," as the case may require, are recoverable and applicable.

Custody of documents.
† Page 11, ante.

**34.** 7 Will. 4 & 1 Vict. c. 83,† "to compel Clerks of the Peace and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament," shall apply to documents required to be deposited by general rules under this act.

General rules in schedule, with power for amendment.

**35.** The general rules under this act shall in the first instance be those set forth in the schedule to this act; and the board of trade may from time to time, for the better execution of this act, make general rules adding to, altering or revoking any general rules for the time being in force under this act; but any general rules so made by the board of trade shall not have effect unless and until they are laid before both houses of parliament; and if either house of parliament, within six weeks after the same are laid before that house, thinks fit to resolve that the same or any part thereof ought not to take effect, the same or that part thereof (as the case may be) shall not take effect; otherwise all rules made by the board of trade under the present section shall be of the same force and effect as if they had been comprised in the schedule to this act.

Publication of rules.

All general rules which are to take effect under the present section shall be published in the London, Edinburgh and Dublin Gazettes.

Annual report to Parliament by Board of Trade.

**36.** Not later than the first day of July in each year the board of trade shall lay before both houses of parliament a report respecting the applications to and proceedings of the board of trade under this act during the year then last past.

## THE SCHEDULE REFERRED TO IN THE FOREGOING ACT.

[(i.)—*Notice of Opposition.* Repealed by 33 & 34 Vict. c. 19, s. 2, post.]

(ii.)—*Form of Certificate of Board of Trade.*

The railway company.

Certificate of the board of trade for the extension of time for sale of superfluous lands [*or as the case may be*].

Whereas the railway company have complied with the requirements of "The Railway Companies Powers Act, 1864:"

Now, therefore, the board of trade do, by this their certificate, in pursuance of the said act, and by virtue and in exercise of the powers thereby in them vested, and of every other power enabling them in this behalf, certify as follows:

[*Here are to follow the provisions of the certificate, showing the powers conferred and the terms and conditions (if any) imposed.*]

The Board of Trade, (Signed) *C. D.*
Whitehall. Secretary of the Board of Trade.
Dated this day of .

(iii.)—*General Rules.*

*Form of Application.*

1. The application to the board of trade for a certificate is to be made by a memorial in writing under the common seal of the company, lodged at the office of the board of trade.

2. Together with the memorial the company are to lodge a printed draft of the certificate as proposed by the company.

*Advertisements as to Application.*

3. Notice of the application to the board of trade is to be given by advertisement published as follows; namely,

In every case, once in each of three successive weeks in some one and the same newspaper of the county, city or town, or county of a city or town, wherein the head office of the promoters is situate:

In the case referred to in the foregoing act as the first-mentioned case, once in each of three successive weeks in some one and the same newspaper of each county, city or town, or county of a city or town, wherein the head office of any railway company with whom the promoters propose to enter into an agreement is situate :

If in any case there is not any such newspaper as hereinbefore described, then in like manner in a newspaper of some adjoining or neighbouring county :

In every case where one company only is proposed to be empowered, then in the London, Edinburgh or Dublin Gazette, according as the head office of the company is situate in England, Scotland or Ireland :

In every case where two or more companies are proposed to be empowered, then in one or more of the gazettes, according as the several head offices of the company respectively are situate in England, Scotland and Ireland respectively.

4 The advertisements are to be published either in the month of June or in the month of November, and not at any other time.

5. Each advertisement is to give the address of an office in London where copies of the draft certificate will be supplied as hereinafter directed.

6 Each advertisement is to state that all persons desirous of making to the board of trade any representation, or of bringing before them any objection respecting the application, may do so by letter addressed to the secretary of the board of trade on or before the first day of August or first day of January next succeeding the date of the advertisement, according as the same is published in the month of June or in the month of November.

7. Within one week after the publication of the latest advertisement a copy of each of the newspapers and gazettes containing the several advertisements is to be lodged at the office of the board of trade.

*Notice to Landowners.*

8. In the case referred to in the foregoing act as the secondly-mentioned case the promoters, in the month of June or in the month of November (as the case may be) in which the advertisements are published, are to serve notice of the application on the owners of lands adjoining to the lands to which the application relates.

*Notice of Opposition.*

9. Notice of opposition by a railway or canal company is to be lodged at the office of the board of trade, not later than the first day of August or first day of January next succeeding the date of the advertisement of application, according as the same is published in the month of June or in the month of November.

*Notice of Settlement of Draft Certificate.*

10. On the draft certificate being settled by the board of trade the promoters are to serve a copy thereof, with a notice that the draft has been settled by the board of trade, on every company, body or person by whom any representation or objection respecting the application was made to or brought before the board of trade, and are also to give by advertisement or otherwise such public or other notice (if any) thereof as according to the circumstances of the case the board of trade direct.

*Supply of Copies of Draft Certificate.*

11. From the time of the publication of the first advertisement the promoters are to keep in the office mentioned in this behalf in the advertisement a sufficient number of copies of the draft of the certificate as proposed by them, and are to furnish there copies to all persons applying for them at the price of not more than sixpence each.

12. From the time of the settlement of the draft certificate by the board of trade the promoters are to keep in the office aforesaid copies of the draft supplied to them for that purpose by the board of trade, and are to furnish there copies thereof to all persons applying for them at such price (if any) as the board of trade from time to time direct.

*Printing of Certificate.*

13. Copies of the certificate printed by the printers of a gazette are to be printed on ordinary white folio paper similar in size to the paper on which the public general acts of parliament are printed for public sale.

## 27 & 28 VICT. CAP. 121.

*An Act to facilitate in certain Cases the obtaining of Powers for the Construction of Railways.* [29th July, 1864.

"Whereas it is expedient to facilitate the making of branch and other lines of railway, and deviations of existing railways, and of railways in course of construction, and also the execution of new works connected with or for the purposes of existing railways: And whereas the object aforesaid would be promoted if, where all landowners and other parties beneficially interested are consenting to the making of a railway or the execution of a work, the persons desirous of making or executing the same were enabled to obtain power to do so, on complying with the conditions of a general act of parliament. without being obliged to procure a special act:" Be it therefore enacted by (&c &c.), as follows:

### *Preliminary.*

Short title.

**1.** This act may be cited as "The Railways Construction Facilities Act, 1864."

Interpretation.

**2.** In this act—

"Lands."

The term "lands" includes any estate, right or interest in lands:

"Promoters."

The term "the promoters" means in each case the company or persons intending to apply to the board of trade for such a certificate as is hereinafter provided for, and, after the application is made, the company or persons actually making the application, as the case may require:

"The railway."

The term "the railway" means in each case the railway and works intended by the promoters before the issuing of the certificate, and after the issuing thereof, the railway and works therein comprised, as the case may require:

"Lands Clauses Acts."

The term "the lands clauses acts" means, so far as the enactment in which that term is used relates to England, or to a certificate to be operative in England, "The Lands Clauses Consolidation Act, 1845" (*n*); and so far as the same relates to Scotland, or to a certificate to be operative in Scotland, "The Lands Clauses Consolidation (Scotland) Act, 1845;" together with, in each case, "The Lands Clauses Consolidation Acts Amendment Act, 1860" (*o*); and so far as the same relates to Ireland, or to a certificate to be operative in Ireland, "The Railways Act (Ireland) 1851" (*p*), together with acts incorporated in or amending that act:

"Companies Clauses Acts."

The term "the companies clauses acts" means, so far as the enactment in which that term is used relates to England or Ireland, or to a certificate to be operative in England or Ireland, "The Companies Clauses Consolidation Act, 1845" (*q*); and so far as the same relates to Scotland, or to a certificate to be operative in Scotland, "The Companies Clauses Consolidation (Scotland) Act, 1845;" together with, in each case, "The Companies Clauses Act, 1863" (*r*):

"Railways Clauses Acts.

The term "the railways clauses acts" means, so far as the enactment in which that term is used relates to England or Ireland, or to a certificate to be operative in England or Ireland, "The Railways Clauses Consolidation Act, 1845" (*s*); and so far as the same relates

(*n*) 8 Vict. c. 18, ante, p. 61.
(*o*) 23 & 24 Vict. c. 106, ante, p. 196.
(*p*) 14 & 15 Vict. c. 70, ante, p. 167.
(*q*) 8 Vict. c. 16, ante, p. 33.
(*r*) 26 & 27 Vict. c. 118, ante, p. 213.
(*s*) 8 Vict. c. 20, ante, p. 96.

to Scotland, or to a certificate to be operative in Scotland, "The Railways Clauses Consolidation (Scotland) Act, 1845;" together with, in each case, "The Railways Clauses Act, 1863" (*t*):

The term "railway bill" means a bill pending in or intended to be introduced into either house of parliament, having for its object or one of its objects to authorize the making of a railway: "Railway bill.

The term "the board of trade" means the lords of the committee for the time being of her Majesty's privy council appointed for the consideration of matters relating to trade and foreign plantations. "Board of Trade."

*Contracts for Lands.*

3. Where promoters of a railway intend to apply under this act for authority to make the railway, they and all parties seised or possessed of or entitled to lands required for the railway shall, in order to the purchase or taking and sale of those lands for the railway have all such powers and capacities as, in order to the purchase or taking and sale of lands required for an undertaking authorized by a special act of parliament, are conferred by the lands clauses acts on the promoters of the undertaking so authorized and on parties seised or possessed of or entitled to lands, or any estate, right or interest in lands required for that undertaking; all which powers and capacities shall be enjoyed and may be exercised by the promoters, and by all such parties as aforesaid, as fully and effectually in all respects as if the promoters had obtained a special act incorporating the lands clauses acts, and authorizing them to make the railway and to purchase or take the lands required for the same; subject, nevertheless, to the following restrictions and provisions; namely, Power for promoters of railway and all persons interested in land to enter into provisional contracts for land required.

(1) Nothing herein shall confer on the promoters and parties aforesaid any of the powers or capacities conferred by the part of the lands clauses acts with respect to the purchase and taking of lands otherwise than by agreement, or by the part of those acts with respect to the entry upon lands by the promoters of the undertaking, or by such provisions of those acts as provide for the determination or ascertainment of the amount of any purchase or compensation money, or the settlement of any apportionment or other matter, otherwise than by agreement (except only as to such of those provisions as provide for the determination of the amount of compensation to be paid for enfranchisement of copyholds; and for the purposes of the present section, section ninety-six * of "The Lands Clauses Consolidation Act, 1845," relating to the enfranchisement of copyholds, shall be read and have effect as if the limitation of time therein contained were omitted therefrom): Exceptions. Purchase otherwise than by agreement. * Page 82, ante.

(2.) Any party under disability or incapacity, and not having power to sell and convey or release any lands, except under the lands clauses acts as applied by the present section, shall have capacity only to contract with the promoters for the sale of those lands, and shall not (before such a certificate of the board of trade, as is hereinafter provided for, comes into operation) have capacity, further or otherwise than if this act had not been passed, to carry the contract into execution, or in pursuance thereof to convey or deliver possession of or release those lands: As to parties under disability.

(3.) The promoters (before such a certificate as aforesaid comes into operation) shall be empowered by this act only to contract for lands, and they shall not have capacity, further or otherwise than if this act had not been passed, to take or hold lands. Holding of lands.

(*t*) 26 & 27 Vict. c. 92, ante, p. 201.

Crown lands, &c.

4. Where lands required for the railway belong to or are enjoyed by her Majesty the Queen, her heirs or successors, in right of the Crown, or form part of the possessions of the Duchy of Lancaster or of the Duchy of Cornwall, any contract for the purposes of this act may be entered into in respect of those lands as follows; namely,

In the first-mentioned case, by the commissioners of her Majesty's woods, forests and land revenues, or one of them, with the consent of the commissioners of her Majesty's treasury;

In the secondly-mentioned case, by the chancellor of the duchy, by writing under his hand attested by the clerk of the council of the duchy;

In the thirdly-mentioned case, by the duke of Cornwall or other the persons for the time being empowered to dispose for any purpose of lands of the duchy.

User of or interference with public or turnpike roads.

5. Notwithstanding anything in this act, it shall not be necessary for the promoters before applying under this act for authority to make the railway, to enter into any contract with respect to any part of a turnpike road or public highway intended to be taken or used or to be diverted or otherwise interfered with, for the purposes of the railway; but the board of trade, before they settle a draft of such a certificate as hereinafter provided for, shall be satisfied that due provision is made for the interests of the trustees or other persons having the management of every such road or highway, and for the safety and convenience of the public in relation thereto.

*Application for Certificate.*

After land contracted for, power for promoters to apply for certificate, publish notices, &c.

6. When the promoters have contracted for the purchase of all the lands required for the railway, and are desirous of obtaining a certificate under this act, they shall proceed as follows; namely,

(1.) They shall apply to the board of trade for a certificate under this act;

(2.) They shall deposit maps, plans, sections and books of reference, and an estimate of the expense of the construction of the railway, and lodge a draft of the certificate as proposed by them, according to the general rules under this act;

(3.) They shall publish notice of the application according to such general rules.

Consideration of application by Board of Trade.

7. As soon as conveniently may be after the time for completion of the required deposit and notice the board of trade shall proceed to inquire in such manner and to such extent as shall appear to them sufficient, whether the promoters have contracted for the purchase of all the lands required for the railway, and to inquire whether the promoters have complied with the requirements of the general rules respecting deposit and notice.

Objections.

8. The board of trade, before settling the draft of a certificate, shall take into consideration any representation made to them, and shall duly inquire into the merits of any objection brought before them, respecting the application.

[Sects. 9, 10, *which contained provisions as to opposition to the undertaking similar to those of " The Powers Act,* 1864," *ss.* 7, 8, *are repealed by* 33 & 34 *Vict. c.* 19, *s.* 2, *post.*]

*Settlement of Draft Certificate.*

Power to Board of Trade to settle certificate.

11. Where the board of trade proceed on the application, then, on being satisfied that the promoters have contracted for the purchase of all the lands required for the railway, and have complied with the requirements of the

general rules respecting deposit and notice, they may, if they think fit, settle a draft of a certificate certifying to the effect that the company, or persons therein specified, are authorised to make the railway therein described.

Insertion of conditions in certificate.

**12.** The board of trade may (subject to the provisions of this act) insert in the draft certificate such provisions as they, according to the circumstances of the case, deem necessary or proper for better effectuating the purposes of the certificate; and the same shall be deemed to all intents part of the certificate.

Form of certificate.

**13.** The certificate may be in the form set forth in the schedule to this act, with such provisions as aforesaid.

*Submission of Draft Certificate to Houses of Parliament.*

Draft certificate to be laid before Parliament.

**14.** The board of trade shall lay the draft certificate settled by them before both houses of parliament within seven days after the same is settled, if parliament is then sitting, and if not, then within seven days after the next meeting of parliament, but not later in any year than the first day of June.

Notice.

**15.** On the draft certificate being settled the promoters shall give notice thereof according to the general rules under this act.

Veto of Parliament.

**16.** If either house of parliament, within six weeks after the draft of a certificate settled by the board of trade is laid before that house, resolves that the certificate ought not to be made, the same shall not be further proceeded with; and in that case all contracts for the purchase or taking of lands for the purposes of the undertaking shall cease to be binding on either party.

*Issue, Publication and Effect of Certificate.*

If no veto, Board of Trade may issue the same.

**17.** If neither house of parliament within the period aforesaid thinks fit to resolve that the certificate ought not to be made, then as soon as the period of six weeks after the laying of the draft certificate before both houses of parliament has expired, the board of trade may make and issue a certificate in conformity with such draft.

Publication of certificate.

**18.** The certificate shall be published in the London or Edinburgh or Dublin Gazette, respectively, if the railway will be situate wholly in England or Scotland, or in Ireland; and shall be published both in the London and in the Edinburgh Gazette, if the railway will be situate partly in England and partly in Scotland.

Operation of certificate as special act.

**19.** As from the time (not being prior to such publication) in the certificate prescribed, and if none is prescribed, then as from the time of such publication, the certificate shall have the same force and operation, and shall be as absolutely valid and conclusive to all intents as if the contents thereof (taken in conjunction with this act) had been expressly enacted by parliament; and the validity of the certificate shall not be impeached on account of any alleged informality in any court or elsewhere.

Judicial notice of certificate.

**20.** The certificate shall be judicially noticed without being specially pleaded.

Interpretation of certificate.

**21.** Terms used in the certificate shall have the same meanings as they have when used in this act.

*Duration of Powers under Certificate.*

Cesser of powers at expiration of prescribed time.

**22.** If the company, or persons by the certificate empowered to make the railway, do not, within five years from the commencement of the operation

of the certificate, or within any shorter period prescribed therein, complete the railway and open it for public traffic, then (subject to any provisions and qualifications in the certificate contained) all the powers and authorities given by the certificate shall, from and after the expiration of the time aforesaid, cease, except as to so much of the railway as is then completed.

*Lands.*

Incorporation of Lands Clauses Acts, except as to compulsory powers, &c.

**23.** The lands clauses acts shall be incorporated with the certificate (which shall for this purpose be deemed the special act) except as may be therein excepted, and except as to the following provisions, namely,—

(1.) With respect to the purchase and taking of lands otherwise than by agreement:

(2.) With respect to the entry upon lands by the promoters of the undertaking:

(3.) So much of those acts as provides for the determination or ascertainment of the amount of any purchase or compensation money, or the settlement of any apportionment or other matter, otherwise than by agreement (but excluding from this exception so much of those acts as provides for the determination of the amount of compensation to be paid for enfranchisement of copyholds).

*Incorporation of Company.*

In what cases company shall be incorporated.

**24.** Where the promoters are not a company incorporated by special act, or by previous certificate under this act, and are seven or more in number, a company shall be incorporated by the certificate for the purposes thereof.

In others company may be incorporated.

**25.** Where the promoters are not a company incorporated by special act, or by previous certificate under this act, and are less than seven in number, a company may be incorporated by the certificate for the purposes thereof, if the promoters so desire.

Power for Board of Trade to incorporate company by certificate.

**26.** Where the certificate incorporates a company, it shall contain proper provisions with apt terms for creating a body corporate, by an appropriate name, with perpetual succession, and a common seal, and with power to take, hold and dispose of lands and other property, for the purposes and subject to the restrictions of the certificate, and may confer on the company power to borrow on mortgage, and all other usual or proper powers.

Incorporation of Companies Clauses Acts.

**27.** In every such case the companies clauses acts shall be incorporated with the certificate (which shall be deemed the special act).

Restriction as to issue of shares.

**28.** It shall not be lawful for any company empowered by a certificate under this act to issue any share created under the authority of the certificate, nor shall any such share vest in the person accepting the same, unless and until a sum not being less than one-fifth part of the amount of such share is paid up in respect thereof.

Restrictions on company as to borrowing, &c.

**29.** Every company, whether incorporated by special act or by certificate, empowered by a certificate to borrow money, shall, as regards the money so authorized to be borrowed, be subject to the following restrictions, namely,—

(1.) They shall not exercise the said powers of borrowing any money until the whole of the share capital authorized by the certificate is subscribed for or taken, and until one-half thereof is actually paid up, and until they prove to the justice who is to certify under section forty * of "The Companies Clauses Consolidation Act, 1845," or (in Scotland) to the sheriff who is to certify under section forty-two of "The Companies Clauses Consolidation (Scotland)

* Ante, p. 40.

Act, 1845," as the case may be, before he so certifies, that shares for the whole of the capital are issued and accepted, and that not less than one-fifth part of the amount of each separate share has been paid up on account thereof before or at the time of the issue or acceptance thereof, and that all such shares were taken in good faith, and are held by the subscribers or their assigns, those subscribers or their assigns being legally liable for the same (of which matter the certificate of the justice or sheriff shall be sufficient evidence).

(2.) They shall not borrow a larger sum in the whole than one-third of the amount of the share capital authorized by the certificate.

(3.) They shall not, out of money raised under the certificate by calls or borrowing, pay interest or dividend to a shareholder on the amount of calls made on his shares, whether created under the certificate or otherwise; (but this provision shall not prevent them paying to a shareholder under the certificate such interest on money advanced by him beyond the amount of calls actually made as is allowed by the companies clauses acts):

(4.) They shall not, out of money so raised, pay or deposit any money that may be required to be paid or deposited in relation to any application to parliament or the board of trade:

(5.) They shall apply every part of the money so raised only for purposes for which it is by the certificate authorized to be applied.

Contracts by promoters binding on company.

**30.** Contracts relative to the purchase or taking of lands for the railway, entered into by the promoters before the incorporation of the company by the certificate, shall be as binding on the company as if they had been entered into by the company.

*Construction of Railway.*

Incorporation of Railways Clauses Acts in certificate, except as to compulsory powers, &c.

**31.** The railways clauses acts shall be incorporated with the certificate (which shall be deemed the special act), except as may be therein excepted, and except as to the following provisions, namely,—

(1.) Such of the provisions with respect to the construction of the railway and the works connected therewith as relate to the correction of errors and omissions in plans or to plans and sections of alterations:

(2.) With respect to the temporary occupation of lands near the railway during the construction thereof:

(3.) With respect to leasing the railway:

and subject to the following provisions, namely,—

(1.) Nothing herein shall confer power for the taking or using of lands for deviation or for any other purpose, otherwise than by agreement.

(2.) Any provision referring to the datum line described in the section approved of by parliament shall be read as referring to the datum line described in the section approved of by the board of trade.

Restriction on alterations of plan or section.

**32.** Where the promoters desire to make any alteration in the deposited plan or section they may do so with the consent of the board of trade; but the board of trade shall not settle a draft of a certificate without being satisfied that all parties interested in lands liable to be affected by or in consequence of the alteration consent thereto.

[Sect. 33. *Gauge to be 4 feet 8½ inches in England and Scotland, and 5 feet 3 inches in Ireland.* Repealed, 33 & 34 Vict. c. 19, s. 5, post.]

*Provisions to secure Completion of Railway.*

Promoters to deposit 8 per cent on estimate in Bank of England, &c.

**34.** After the certificate is ready to be issued, and before the same is issued, by the board of trade, the promoters, unless they are a previously-existing company possessed of a railway open for public traffic, shall within such time as general rules under this act direct, pay as a deposit a sum of money not less than eight per centum on the amount of their estimate of the expense of the construction of the railway, as follows, namely,—

Where the railway or any part thereof will be situate in England,—into the Bank of England, in the name and with the privity of the *accountant-general of the court of chancery in England* (u):

Where the railway will be situate wholly in Scotland,—either into the Bank of England in manner aforesaid, or (at the option of the promoters) into a bank in Scotland established by act of parliament or royal charter, in the name and with the privity of the queen's remembrancer of the court of exchequer in Scotland:

Where the railway will be situate in Ireland,—into the bank of Ireland, in the name and with the privity of the accountant-general of the court of chancery in Ireland.

Warrant of Board of Trade for payment into court.

**35.** The board of trade may issue their warrant to the promoters for such payment into court, which warrant shall be a sufficient authority for the persons therein named, or the majority or survivors of them, to pay the money therein mentioned into the bank therein mentioned, in the name and with the privity of the officer therein mentioned, and for that officer to receive the same, to be placed to his account there, ex parte the railway therein mentioned, according to the method (prescribed by statute or general rules or orders of court, or otherwise) for the time being in force respecting the payment of money into the said courts respectively, and without fee or reward.

Liberty for promoters to bring in exchequer bills, &c.

**36.** Provided, that in lieu, wholly or in part, of the payment of money, the promoters may bring into court as a deposit an equivalent sum of bank annuities, or of any stocks, funds or securities on which cash under the control of the respective court is for the time being permitted to be invested, or of exchequer bills (the value thereof being taken at the price at which the promoters originally purchased the same, as appearing by the broker's certificate of that purchase); and in that case the board of trade shall vary their warrant accordingly.

Provision for vacations in offices of courts.

**37.** At any time when the office of the accountant-general of the court of chancery in England or Ireland is closed, a deposit under this act may nevertheless be made, in such manner as general orders of the respective courts authorize and direct.

Power for court to direct investment.

**38.** Where money is so paid into the court of chancery in England or Ireland, the court may, on the application of the persons named in the warrant of the board of trade, or of the majority or survivors of them, order that the same be invested in such stocks, funds or securities as the applicants desire and the court thinks fit.

Interpretation of "deposit fund" and "depositors" in following provisions.

**39.** In the subsequent provisions of this act, the term "the deposit fund" means the money deposited, or the stocks, funds or securities in which the same is invested, or the bank annuities, stocks, funds, securities or exchequer bills deposited, as the case may be; and the term "the depositors" means the persons named in the warrant of the board of trade authorizing the deposit, or the majority or survivors of those persons, their executors, administrators or assigns.

(u) Now Paymaster-General; see p. 96, ante, note.

**40.** The court in which the deposit is made shall, on the application of the depositors, order the deposit fund to be paid, transferred or delivered out to the applicants, or as they direct, in any of the following events, namely,— Repayment of deposit on completion of railway or on terms.

(1.) If, within the time in the certificate prescribed, and if none is prescribed, then within five years from the commencement of the operation of the certificate, the company, or persons thereby empowered to make the railway, complete it and open it for public traffic ; or

(2.) If, within the same time, they (being a company) prove to the satisfaction of the board of trade that one-half of their nominal capital authorized by the certificate is paid up, and that they have expended a like amount for the purposes of the certificate ; or

(3.) If, at any time after the issuing of the certificate, they execute and deliver to the solicitor of her Majesty's treasury a bond with a surety or sureties (such bond being prepared to the satisfaction of, and such surety or sureties being approved by, the said solicitor) in a penal sum of twice the amount of the money required to be deposited, conditioned to the effect following, namely,—for payment to her Majesty, her heirs or successors, of the amount of the money required to be deposited, if the company or persons empowered by the certificate do not, within the time aforesaid, either complete the railway and open it for public traffic, or (being a company) give such proof as aforesaid respecting their capital and expenditure.

**41.** If the company, or persons empowered by the certificate to make the railway, do not, within the time in the certificate prescribed, and if none is prescribed, then within five years from the commencement of the operation of the certificate, do one or other of the following things, namely,— Forfeiture of deposit on non-completion of railway, &c.

(1.) Complete the railway and open it for public traffic ; or

(2.) Give (being a company) such proof as hereinbefore mentioned respecting their capital and expenditure ; or

(3.) Execute and deliver such a bond as is hereinbefore described,—

then and in every such case the deposit fund shall, from and after the expiration of the time aforesaid, be forfeited to her Majesty and shall accordingly be paid, transferred or delivered out to or for the account of her Majesty's exchequer, in such manner as the court in which the deposit is made thinks fit to order, on the application of the solicitor of her Majesty's treasury, on notice to such parties (if any) as the court thinks fit ; and the deposit fund, when so paid, transferred or delivered, or the proceeds thereof, shall be carried to and form part of the consolidated fund of the United Kingdom.

**42.** Where any such bond as aforesaid is given, the amount recovered thereon shall be paid to the account of her Majesty's exchequer, and shall be carried to and form part of the said consolidated fund. Application of money recovered on bond.

**43.** The depositors shall be entitled to receive payment of the interest or dividends from time to time accruing on the deposit fund while in court ; and the court in which the deposit is made may from time to time, on the application of the depositors, make such order as seems fit respecting the payment of the interest or dividends accordingly. Depositors to receive dividends accruing while fund in court.

**44.** The certificate of the board of trade that such proof as aforesaid respecting the capital and expenditure of any company has been given to the satisfaction of the board of trade, and the certificate of the solicitor of her Majesty's treasury that such bond as aforesaid has in any case been Proof as to capital and expenditure, execution of bond, &c.

prepared, executed and delivered to his satisfaction, shall respectively be sufficient evidence of the matters therein certified.

Protection to Board of Trade in case of error, &c.

**45.** The issuing in any case of any warrant or certificate relating to deposit or to the deposit fund, or any error in any such warrant or certificate or in relation thereto, shall not make the board of trade, or the person signing the warrant or certificate on their behalf, in any manner liable for or in respect of the deposit fund, or the interest of or dividends on the same or any part thereof respectively.

Mode of application to courts.

**46.** Any application under this act to the court of chancery in England or Ireland shall be made in a summary way in such manner as general orders of those courts respectively direct.

Power to courts to make general orders.

**47.** The lord chancellor of Great Britain, with the advice and assistance of the lords justices of the court of appeal in chancery and the master of the rolls and the vice-chancellors, or any two of those judges, and the lord chancellor of Ireland, with the advice and assistance of the lord justice of the court of appeal in chancery in Ireland and of the master of the rolls in Ireland, may respectively from time to time make such general orders as seem fit for the regulation of the practice under this act of the court of chancery in England and Ireland respectively.

Penalty on company failing to open new railway in certain cases.

**48.** Where a certificate is obtained by a previously-existing company possessed of a railway opened for public traffic, then, if the company fail to complete the railway and open it for public traffic within the time in the certificate prescribed, and if none is prescribed, then within five years from the commencement of the operation of the certificate, the company shall be liable to a penalty of not less than twenty pounds and not exceeding fifty pounds for every day during which such failure continues, except only in respect of any time during which it appears from a certificate of the board of trade that the company were prevented from completing the railway, or opening it for public traffic, by unforeseen accident or circumstances beyond their control, but the want of sufficient funds shall not be deemed a circumstance beyond their control within the meaning of this provision.

*Tolls and Charges for use of Railway.*

Tolls, &c., in schedule.

**49.** The proprietors of the railway may demand and take, in respect of the railway, tolls and charges not exceeding the sums specified in the schedule to this act, subject and according to the regulations therein specified.

Power for Board of Trade to vary tolls, &c.

**50.** The board of trade may nevertheless by the certificate vary the tolls and charges and regulations specified in the schedule to this act, or any of them, if in any case it seems to them necessary or proper under the circumstances to do so.

*Application of General Railway Acts.*

Enactments in schedule applied to the railway and company, subject to variations.

**51.** The enactments described in the schedule to this act, and any enactments amending, perpetuating or otherwise affecting any of them, so far as the same are in force at the passing of this act, shall extend and apply, as the case may require, to the railway, and to the company or persons empowered by the certificate to make the railway, and shall in all respects operate in relation thereto respectively as if they were expressly repeated and re-enacted in this act, subject, nevertheless, and according to the following variations and provisions; namely,

Certificate equivalent to special act. See sect. 19.

(1.) For the purposes and within the meaning of any of those enactments, the railway shall be deemed to be a railway made and constructed and carried on under the authority of parliament and

under the powers and provisions of an act of parliament, and the certificate (taken in conjunction with this act) shall be deemed to be a special act of parliament regulating or relating to the railway or the company, body or persons empowered to make the same (as the case may require):

(2.) Such of those enactments as refer to the time of the passing of an act of parliament for the construction of a railway, or to the last day of the session in which such an act is passed, shall respectively be read and have effect as referring to the time of the commencement of the operation of the certificate: Time.

(3.) The terms "company" and "railway company" used in any of those enactments shall respectively include any persons empowered by the certificate to make the railway: "Company."

(4.) Such of those enactments as refer to the directors or any director, or the secretary, chief or other clerk, accountant, treasurer, or other officer of a company, shall extend and apply to every or any one of the persons (not being a company) empowered by the certificate to make the railway: Directors, &c.

(5.) Such of those enactments as refer to a writing under the common seal of the company shall be read and have effect as referring to a writing under the hand and seal of any one of such persons, as aforesaid:

(6.) Such of those enactments as impose any penalty or forfeiture, or any pecuniary liability or any obligation on a company, or give any right, remedy or process against a company, shall be read and have effect (so far as the nature and circumstances of the case admit) as imposing a like penalty, forfeiture, liability or obligation on, or as giving a like right, remedy or process against, every or any one of such persons as aforesaid, but not so as to authorize the recovery of any penalty or forfeiture from, or the enforcement of any pecuniary liability against, more than one of such persons in respect of the same offence, matter or thing: Penalties.

(7.) The amount of any compensation to be made to the owners and occupiers of any lands for loss or injury or inconvenience sustained by them respectively by reason of any works done under the authority of any of those enactments shall, in case of dispute, be settled in manner directed by the lands clauses acts and the railways clauses acts as respectively applicable to the case: Compensation.

(8.) Such of those enactments as provide for the case of the board of trade certifying that the public safety requires additional land to be taken by a company for the purpose of giving increased width to the embankments or inclination to the slopes of the railway, or for making approaches to bridges or archways, or for doing works for the repair or prevention of accidents or slips happening or apprehended to the cuttings, embankments or other works of the railway, shall be read and have effect, as regards such portions of land as are mentioned in any certificate so given by the board of trade, as if compulsory powers of purchasing and taking lands had been contained in the certificate under this act authorizing the making of the railway, and the provisions of the lands clauses acts and the railways clauses acts relative to the compulsory purchase or taking of land had been incorporated with that certificate: Taking of additional land.

(9.) If the railway is in any respect constructed contrary to the provisions of the certificate, or of this act, it shall be deemed to be constructed contrary to the provisions of any of those enactments applicable in the case: Infringement of certificate.

Saving. (10.) Nothing herein shall extend or make applicable for the purposes of this act, to or in any one of the parts of the United Kingdom, any of those enactments not in force there independently of this act.

*Miscellaneous.*

Board of Trade may reject the application. **52.** Nothing in this act shall make it obligatory on the board of trade to settle a draft of a certificate in any case if it appears to the board of trade for any reason that the application of the promoters should not be complied with; and in case the board of trade reject any application, all contracts for the purchase or taking of lands for the purposes of the undertaking shall cease to be binding on either party.

Saving for general acts, or revision of charges. **53.** Nothing in the certificate shall exempt the railway or the company, or persons to whom it belongs, from the provisions of any general act of parliament relating to railways, or to the better audit of the accounts of railway companies, passed before or after the issuing of the certificate, or from any revision and alteration, under the authority of parliament, of the maximum tolls and charges allowed to be taken under the certificate.

New works in connexion with railway. **54.** All the provisions of this act which relate to the making of a railway shall extend and apply, mutatis mutandis, to the making or executing of any work connected with or for the purposes of a railway (as distinguished from the construction of a railway).

Power to authorize joint work. **55.** Subject and according to the provisions of this act, the board of trade may, on a joint application or on two or more separate applications, issue a certificate empowering two or more companies or persons respectively to jointly make or execute the whole, or to separately make or execute parts, of a work connected with or for the purposes of a railway, and to jointly or separately use the whole or parts thereof; and all the provisions of this act which relate to the making of a railway, or the making or executing of a work, shall extend and apply to the making or executing of the whole and the separate parts of such work as last aforesaid; and the form of the certificate may be adapted to the circumstances of the case.

Power to promoters, being a company, to raise additional capital. **56.** Where the certificate is obtained by a previously-existing company incorporated by special act or by certificate, the certificate may authorize the company to raise, as capital, for the purposes of the certificate, such additional sum of money as therein limited, by the issue of new shares or new stock, either ordinary or preference, or partly ordinary and partly preference, or partly in that mode and partly by borrowing on mortgage, at the option of the company, or as may be prescribed in the certificate, and with power to create and issue debenture stock.

Companies Clauses Acts incorporated. In every such case the companies clauses acts shall be incorporated with the certificate.

In every such case the restrictions by this act imposed on a company when originally incorporated by certificate, with respect to the exercise of their borrowing power and to the application of money raised under the certificate by calls or borrowing, shall extend and apply to such previously-existing company in respect of such additional capital.

Where promoters are a company, approval of application by a meeting. **57.** Where the certificate is obtained by a previously-existing company incorporated by special act or by certificate, it shall be the duty of the board of trade not to settle a draft of the certificate without being satisfied that the members of the company have approved of the application to the board of trade, in like manner as, under the standing orders of either house of parliament for the time being in force (*x*), their approval of a railway bill would be required to be given in the same case.

(*x*) See especially the "Wharncliffe Order," L. S. O. 62.

**58.** Subject and according to the restrictions and provisions of this act, the board of trade, on the application of any company or persons empowered by a certificate, may from time to time amend, extend or vary by certificate the previous certificate, and may by certificate revoke the previous certificate. Power to Board of Trade to amend or revoke certificate.

**59.** If in any case it is made to appear to the board of trade that any error has been committed in a certificate or in relation thereto, the board of trade may, subject and according to the restrictions and provisions of this act, on the application of any company, body or person affected by the error, and on notice to the company or persons empowered by the certificate, correct the error by a further certificate. Power to correct error.

**60.** A copy of the London, Edinburgh or Dublin Gazette containing a certificate or a copy of a certificate, purporting to be printed by the printers of the London, Edinburgh, or Dublin Gazette, shall be conclusive evidence of the certificate, and of the due publication thereof, without any proof of the Gazette, or without any proof of the copy having been in fact so printed, as the case may be. Proof of certificate.

**61.** The company or persons empowered by a certificate shall at all times keep at their head office copies of the certificate printed by the printers of the Gazette or one of the Gazettes in which the same was published, in such form as general rules under this act direct, to be sold to all persons desiring to buy the same, at a price not exceeding one shilling for each copy. Copies of certificate for sale.

If any company or persons fail to comply with this provision they shall be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for every day during which such failure continues after the first penalty is incurred.

**62.** Penalties under this act or under a certificate, the recovery and application whereof are not otherwise provided for, shall be recovered and applied as penalties under the railways clauses acts* are recoverable and applicable. Penalties.

* Page 129, ante.

**63.** 7 Will. 4 & 1 Vict. c. 83,† "to compel clerks of the peace and other persons to take the custody of such documents as shall be directed to be deposited with them under the standing orders of either house of parliament," shall apply to documents required to be deposited by general rules under this act. Custody of documents.

† Page 1, ante.

**64.** The general rules under this act shall in the first instance be those set forth in the schedule to this act; and the board of trade may from time to time, for the better execution of this act, make general rules adding to, altering or revoking any general rules for the time being in force under this act; but any general rules so made by the board of trade shall not have effect unless and until they are laid before both houses of parliament, and if either house of parliament, within six weeks after the same are laid before that house, thinks fit to resolve that the same or any part thereof ought not to take effect, the same or that part thereof (as the case may be) shall not take effect; otherwise all rules made by the board of trade under the present section shall be of the same force and effect as if they had been comprised in the schedule to this act. General rules in schedule with power for amendment.

All general rules which are to take effect under the present section shall be published in the London, Edinburgh, and Dublin Gazettes.

**65.** Not later than the first day of July in each year the board of trade shall lay before both houses of parliament a report respecting the applications to and proceedings of the board of trade under this act during the year then last past. Annual report to Parliament by Board of Trade.

## THE SCHEDULE REFERRED TO IN THE FOREGOING ACT.

[(i.)—*Notice of Opposition:* Repealed by 33 & 34 Vict. c. 19, s. 2, post.]

(ii.)—*Form of Certificate of Board of Trade.*

The railway.

Certificate of the board of trade for the construction of the railway.

Whereas the promoters of the railway have contracted for the purchase of the lands required for the railway and the works connected therewith, and have complied with the requirements of "The Railways Construction Facilities Act, 1864:"

Now, therefore, the board of trade do, by this their certificate, in pursuance of the said act, and by virtue and in exercise of the powers thereby in them vested, and of every other power enabling them in this behalf, certify as follows:

[*Here are to follow the provisions of the certificate, showing the powers conferred and the terms and conditions (if any) imposed.*]

The Board of Trade, Whitehall, (Signed) *C. D.*

Dated this day of . Secretary to the Board of Trade.

(iii.)—TOLLS AND CHARGES.

TABLE I.

*Maximum Charges for Use of Railway and Supply of Carriages, Waggons, or Trucks.*

| | For Use of Railway, per Mile. | For Supply of Carriage, Waggon, or Truck by the Proprietors of the Railway, the additional Sum per Mile of |
|---|---|---|
| Passengers:— | | |
| For every Person | Twopence. | One Penny. |
| Animals:— | | |
| For every Horse, Ass, Mule or other Beast of Draught or Burden (Class 1) | Threepence. | One Penny. |
| For every Ox, Cow, Bull or head of Neat Cattle (Class 2) | Twopence. | One Penny. |
| For every Calf, Pig, Sheep, Lamb and other small Animal (Class 3) | Three Farthings. | One Farthing. |
| Goods (except as provided for in Table IV.):— | | |
| For Cotton and other Wools, Manufactured Goods, Drugs, Fish and all other Wares, Merchandise, Articles, Matters or Things not enumerated in any other Class (Class 4) per Ton | Threepence. | One Penny. |
| For Sugar, Grain, Corn, Flour, Hides, Dyewoods, Earthenware, Timber, Staves, Deals and Metals (except Iron), Nails, Anvils, Vices, Chains and Light Iron Castings (Class 5) per Ton | Twopence Halfpenny. | One Penny. |
| For Coke, Charcoal, Pig Iron, Bar Iron, Rod Iron, Sheet Iron, Hoop Iron, Plates of Iron, Wrought Iron, Heavy Iron Castings, Railway Chains, Slabs, Billets and Rolled Iron, Lime, Bricks, Tiles, Slates, Salt, Fireclay and Stone (Class 6) per Ton | Three Halfpence. | One Penny. |
| For Dung, Compost, Manure, undressed Material for Repair of Public Roads or Highways, Coals, Culm, Cinders, Cannel, Ironstone, Iron Ore, Limestone, Clay (except Fireclay), Chalk, Sand and Slag (Class 7) per Ton | Five Farthings. | One Halfpenny. |
| For every Carriage of whatever Description conveyed on a Truck or Platform belonging to the Proprietors of the Railway (Class 8): | | |
| If not weighing more than One Ton | Sixpence. | |
| If weighing more than One Ton, then for the first Ton | Sixpence. | |
| And for every additional Quarter of a Ton, or fractional Part of a Quarter of a Ton, above the first Ton | Three Halfpence. | |

TABLE II.

*Maximum Charges for Supply of Locomotive Power.*

For the Use of Engines for propelling Carriages on the Railway:
For every Passenger, Animal and Ton of Goods . . . per Mile One Penny.

TABLE III.

*Maximum total Charges for Use of Railway and Supply of Carriages, Waggons or Trucks, and Supply of Locomotive Power, and every other Expense incidental to Conveyance of Passengers, Animals or Goods along the Railway.*

| | | | Per Mile. |
|---|---|---|---|
| Passengers:— | | | |
| For every person conveyed in a First-class Carriage | | | Threepence. |
| ,, ,, Second-class ,, | | | Twopence. |
| ,, ,, Third-class ,, | | | Five Farthings. |
| Animals — | | | |
| For every Animal in Class 1 | | | Fourpence. |
| ,, Class 2 | | | Threepence. |
| ,, Class 3 | | | Three Halfpence. |
| Goods.— | | | |
| For every Thing in Class 4 | | per Ton | Fourpence. |
| ,, Class 5 | | per Ton | Threepence. |
| ,, Class 6 | | per Ton | Twopence. |
| ,, Class 7 | | per Ton | Three Halfpence. |
| For every Carriage in Class 8 | | | The Charge specified in Table I. |

TABLE IV.

*Maximum Charges for small Packages and single Articles of great Weight.*

| | |
|---|---|
| Small Packages:— | |
| For every Parcel not exceeding Seven Pounds in Weight | Sixpence. |
| ,, exceeding Seven Pounds, but not exceeding Fourteen Pounds, in Weight | Eightpence. |
| ,, exceeding Fourteen Pounds, but not exceeding Twenty-eight Pounds, in Weight | One Shilling. |
| ,, exceeding Twenty-eight Pounds, but not exceeding Fifty-six Pounds, in Weight | One Shilling & Threepence. |
| ,, exceeding Fifty-six Pounds, but not exceeding Five Hundred Pounds, in Weight, for the first Fifty-six Pounds | One Shilling. |
| And for every additional Fifty-six Pounds, or fractional Part of Fifty-six Pounds, above the first Fifty-six Pounds | Sixpence. |

Single Articles of Great Weight.—
For every Boiler, Cylinder or Single Piece of Machinery, Timber or Stone, or other Single Article:
If weighing (inclusive of the Carriage) more than Four but not more than Eight tons, Sixpence per Ton per Mile.
If weighing (inclusive of the Carriage) more than Eight Tons, such Sum as the Proprietors of the Railway think fit.

REGULATIONS.

1. For passengers, animals or goods conveyed on the railway for a distance less than that prescribed in the certificate as the short distance, and if none is prescribed then for a distance less than six miles, charges are to be payable as for the short distance prescribed, and if none is prescribed then as for six miles. Short distance charge.

2. In respect of passengers, every fraction of a mile beyond an integral number of miles is to be deemed a mile. Fraction of mile; passengers.

3. In respect of animals and goods, for a fraction of a mile beyond the short distance prescribed, or if none is prescribed then beyond six miles, or beyond any greater number of miles, charges are to be payable in proportion to the number of quarters of a mile contained in that fraction; and a fraction of a quarter of a mile is to be deemed a quarter of a mile. Fraction of mile; animals and goods.

4. For a fraction of a ton charges are to be payable according to the number of quarters of a ton in that fraction; and a fraction of a quarter of a ton is to be deemed a quarter of a ton. Fraction of ton.

Passengers' luggage.

5. Every passenger travelling on the railway may, without charge, cause to be carried in the same train with him his ordinary luggage, not exceeding the weight prescribed in the certificate, and if none is prescribed then not exceeding the weight of one hundred and twenty pounds for a first-class passenger, one hundred pounds for a second-class passenger, and sixty pounds for a third-class passenger.

Special trains.

6. The restriction as to charges for passengers does not extend to special trains when required by passengers, but applies only to the ordinary or express passenger or goods trains appointed by the proprietors of the railway.

Determination of weight.

7. Except as to stone and timber, weight is to be determined according to avoirdupois weight.

Fourteen cubic feet of stone, and forty cubic feet of oak, mahogany, teak, beech or ash, and fifty cubic feet of any other timber, are to be deemed one ton, and so in proportion for any smaller quantity.

Terminal station charges.

8. In addition to the charges in Table III., a reasonable charge is to be payable for the loading, covering and unloading of goods at any station, being a terminal station in respect of such goods, and for delivery and collection, and any other services incidental to the duty or business of a carrier, where such services, or any of them, are or is performed by the proprietors of the railway.

A station is not to be considered a terminal station in respect of goods, unless they are received there direct from the consignor, or are directed to be delivered there to the consignee.

Small packages.

9. The term small packages does not include articles sent in large aggregate quantities, although made up of separate parcels, such as bags of sugar, coffee, meal, and the like; but applies only to single parcels in separate packages.

Agreement for higher charges.

10. Nothing herein or in the certificate contained is to prevent the proprietors of the railway from taking any charge over and above the charges hereinbefore limited for the conveyance of goods of any description by agreement with the owners of or any persons in charge of such goods, either in respect of the conveyance thereof (except small packages) by passenger trains, or by reason of any other special service performed by the proprietors of the railway in relation thereto.

(iv.)—*Enactments in General Acts relating to Railways applied to Railways under this Act* (*y*).

| Session and Chapter, and Section (if any). | Title or Short Title of Act. |
|---|---|
| 1 & 2 Vict. c. 80 (*z*) . . . | An act for the Payment of Constables for keeping the Peace near Public Works. |
| 1 & 2 Vict. c. 98 (*a*) . . . | An Act to provide for the Conveyance of the Mails by Railways. |
| 2 & 3 Vict. c. 45 (*b*) . . . | An Act to amend an Act of the Fifth and Sixth Years of the Reign of His late Majesty King William the Fourth relating to Highways. |
| 3 & 4 Vict. c. 97 (*c*) . . . | An Act for regulating Railways. |
| 5 & 6 Vict. c. 55 (*d*) . . . | An Act for the better Regulation of Railways, and for the Conveyance of Troops. |
| 5 & 6 Vict. c. 79, ss. 2 to 7 (both inclusive), and ss. 24, 25, 26 (*e*). | An Act to repeal the Duties payable on Stage Carriages, and on Passengers conveyed upon Railways, and certain other Stamp Duties in Great Britain, and to grant other Duties in lieu thereof; and also to amend the Laws relating to Stamp Duties. |
| 7 & 8 Vict. c. 85 (*f*) . . . | An Act to attach certain Conditions to the Construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament, and for other Purposes relating to Railways. |
| 8 & 9 Vict. c. 3 . . . | An act for the Appointment of Constables or other Officers for keeping the Peace near Public Works in Scotland. |
| 8 & 9 Vict. c. 46 (*g*) . . . | An Act for the Appointment of additional Constables for keeping the Peace near Public Works in Ireland. |

(*y*) See 33 & 34 Vict. c. 19, s. 6, post.
(*z*) Ante, p. 3.
(*a*) Ante, p. 4.
(*b*) Ante, p. 10.
(*c*) Ante, p. 12.
(*d*) Ante, p. 15.
(*e*) Ante, p. 21.
(*f*) Ante, p. 25.
(*g*) Ante, p. 134.

(iv.)—*Enactments in General Acts relating to Railways, &c.*—continued.

| Session and Chapter, and Section (if any) | Title or Short Title of Act. |
|---|---|
| 9 & 10 Vict. c 57, ss 4, 6, 7, 8 (*h*) | An Act for regulating the Gauge of Railways. |
| 10 & 11 Vict. c. 85, s. 16 (*i*) . | An Act for giving further facilities for the Transmission of Letters by Post, and for the regulating the Duties of Postage thereon, and for other Purposes relating to the Post Office. |
| 14 & 15 Vict. c. 64 (*k*) . . . | An Act to repeal the Act for constituting Commissioners of Railways |
| 17 & 18 Vict c. 31 (*l*) . . | The Railway and Canal Traffic Act, 1854. |
| 18 & 19 Vict c. 122, s. 6 (*m*) . | An Act to amend the Laws relating to the Construction of Buildings in the Metropolis and its Neighbourhood. |
| 20 & 21 Vict. c. 31, s. 4 (*n*) . | An Act to amend and explain the Inclosure Acts. |
| 21 & 22 Vict. c. 75 (*o*) . . | An Act to amend the Laws relating to Cheap Trains, and to restrain the Exercise of certain Powers by Canal Companies, being also Railway Companies. |
| 22 & 23 Vict. c. 59 (*p*) . . . | Railway Companies Arbitration Act, 1859. |
| 26 & 27 Vict. c. 33, ss. 13, 14 (*q*) | An Act for granting to Her Majesty certain Duties of Inland Revenue, and to amend the Laws relating to the Inland Revenue. |
| 26 & 27 Vict. c. 112, s. 32 (*r*) . | The Telegraph Act, 1863. |

(v.)—General Rules.

*Form of Application.*

1. The application to the board of trade for a certificate is to be made by a memorial in writing, signed by the promoters or some or one of them, and lodged at the office of the board of trade.

2. Together with the memorial the promoters are to lodge—
   (*a*) A printed draft of the certificate as proposed by the promoters:
   (*b*) An estimate of the expense of the construction of the proposed new railway or work (if any), signed by the person making the estimate.

*Plans, Sections, &c.*

3. Maps, plans, sections and books of reference deposited by the promoters are to be such, in respect of scale and contents and otherwise, as, under the standing orders of either house of parliament for the time being in force, they would be obliged to deposit if they were proceeding in the same case by a railway bill.

4. The maps, plans, sections, and books of reference aforesaid are to be deposited at the office of the board of trade at the time when the memorial is lodged there.

5. They are also to be deposited for public inspection at the same offices of the clerks of the peace or sheriff clerks, at which, under the standing orders aforesaid, the promoters would be obliged to deposit them if they were proceeding in the same case by a railway bill.

6. Where any part of the railway will be situate within the limits of the metropolis, as defined by "The Metropolis Management Act, 1855," a copy of so much of the plans and sections as relates to that part is to be deposited at the office of the metropolitan board of works.

7. A copy of so much of the plans and sections as relates to each parish in which any part of the railway will be situate, or in which any lands intended to be taken for the railway are situate, together with a copy of so much of the book of reference as relates to that parish, is to be deposited for public inspection with the officer or person with whom, under the standing orders aforesaid, the promoters would be obliged to deposit the same if they were proceeding in the same case by a railway bill.

(*h*) Ante, p. 141.
(*i*) Ante, p. 147.
(*k*) Ante, p. 166.
(*l*) Ante, p. 175.
(*m*) Ante, p. 180.
(*n*) Ibid. 181.
(*o*) Ibid. 181.
(*p*) Ante, p. 182.
(*q*) Ante, p. 201.
(*r*) Ante, vol. I. Chap. XII.

*Advertisements as to Application.*

8. After all the deposits aforesaid have been made, notice of the application to the board of trade is to be given by advertisement published as follows, namely:

Where the railway will be situate wholly in one county, city, or town, or county of a city or town, then once in each of three successive weeks in some one and the same newspaper of that county, city or town, or county of a city or town:

Where the railway will not be situate wholly in one county, city or town, or county of a city or town, then once in each of three successive weeks in some one and the same newspaper of the county, city or town, or county of a city or town, wherein the head office of the promoters is situate, and also once in each of three successive weeks in some one and the same newspaper of each county, city or town, or county of a city or town, wherein any part of the railway will be situate:

If in any case there is not any such newspaper as hereinbefore described, then in like manner in a newspaper of some adjoining or neighbouring county.

In every case, once at least in the London, Edinburgh, or Dublin Gazette, respectively, if the railway will be situate wholly in England or Scotland, or in Ireland, and both in the London and in the Edinburgh Gazette, if the railway will be situate partly in England and partly in Scotland.

9. The advertisements are to be published either in the month of June or in the month of November and not at any other time.

10. Each advertisement is to give the address of an office in London where copies of the draft certificate will be supplied as hereinafter directed.

11. Each advertisement is to state that all persons desirous of making any representation to the board of trade, or of bringing before them any objection respecting the application, may do so by letter addressed to the secretary of the board of trade, on or before the first day of August or first day of January next succeeding the date of the advertisement, according as the same is published in the month of June or in the month of November.

*Deposit of Copies of Advertisements.*

12. Within one week after the publication of the latest advertisement, a copy of each of the newspapers and Gazettes containing the several advertisements is to be lodged at the office of the board of trade.

13. Within the same time, a printed copy of the Gazette advertisement is to be deposited for public inspection in each of the same offices, and with each of the same officers and persons, in which or with whom the maps, plans, sections and books of reference or parts thereof were deposited.

14. The last-mentioned deposit of a copy of the Gazette advertisement may be made (if the promoters choose) by means of a registered post letter, and any deposit so made shall be deemed made on the day on which such letter would be delivered in ordinary course of post.

*Note of Time of deposit.*

15. Where any document is deposited under these rules for public inspection, the clerk of the peace, sheriff clerk, or other officer or person, in whose office or with whom it is deposited, is to make thereon a memorial in writing denoting the time at which it was deposited.

*Notice to Road Trustees.*

16. Where any part of a turnpike road or public highway is intended to be taken or used, or to be diverted or otherwise interfered with, for the purposes of the railway, the promoters in the month of June or November (as the case may be) in which the advertisements are published, are to serve notice of the application on the trustees or other persons having the management of such road or highway.

*Notice of Opposition.*

17. Notice of opposition by a railway or canal company is to be lodged at the office of the board of trade, not later than the first day of August or first day of January next succeeding the date of the advertisement of application, according as the same is published in the month of June or in the month of November.

*Notice of Settlement of Draft Certificate.*

18. On the draft certificate being settled by the board of trade, the promoters are to serve a copy thereof, with a notice that the draft has been settled by the board of trade, on every company, body, or person, by whom any representation or objection respecting

the application was made to or brought before the board of trade, and are also to give by advertisement or otherwise such public or other notice (if any) thereof, as according to the circumstances of the case the board of trade direct.

*Supply of Copies of Draft Certificate.*

19. From the time of the publication of the first advertisement the promoters are to keep in the office mentioned in this behalf in the advertisement, a sufficient number of copies of the draft of the certificate as proposed by them, and are to furnish there copies to all persons applying for them at the price of not more than sixpence each.

20. From the time of the settlement of the draft certificate by the board of trade, the promoters are to keep in the office aforesaid copies of the draft supplied to them for that purpose by the board of trade, and are to furnish there copies thereof to all persons applying for them at such price (if any) as the board of trade from time to time direct.

*Deposit of Money.*

21. The deposit of money or government securities in court is to be made within one month after notice from the board of trade that they are prepared to issue the certificate.

*Printing of Certificate.*

22. Copies of the certificate printed by the printers of a Gazette are to be printed on ordinary white folio paper, similar in size to the paper on which the public general acts of parliament are printed for public sale.

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## 28 & 29 VICT. CAP. 27.

### *An Act for awarding Costs in certain Cases of Private Bills.*

[26th May, 1865.

Whereas it is expedient to empower committees of both houses of Parliament on private bills to award costs in certain cases: Be it enacted, by (&c. &c.), as follows:—

**1.** When the committee on a private bill shall decide that the preamble is not proved, or shall insert in such bill any provision for the protection of any petitioner, or strike out or alter any provision of such bill for the protection of such petitioner, and further unanimously report, with respect to any or all of the petitioners against the bill, that such petitioner or petitioners has or have been unreasonably or vexatiously subjected to expense in defending his or their rights proposed to be interfered with by the bill, such petitioner or petitioners shall be entitled to recover from the promoters of such bill his or their costs in relation thereto, or such portion thereof as the committee may think fit, such costs to be taxed by the taxing officer of the house as hereinafter mentioned, or the committee may award such a sum for costs as they shall think fit, with the consent of the parties affected.

When committee report "Preamble not proved," opponents to be entitled to recover costs.

**2.** When the committee on a private bill shall decide that the preamble is proved, and further unanimously report that the promoters of the bill have been vexatiously subjected to expense in the promotion of the said bill by the opposition of any petitioner or petitioners against the same, then the promoters shall be entitled to recover from the petitioners, or such of them as the committee shall think fit, such portion of their costs of the promotion of the bill as the committee may think fit, such costs to be taxed by the taxing officer of the house as hereinafter mentioned, or such a sum for costs as the committee shall name, with the consent of the parties affected;

When committee report unanimously "Opposition unfounded," promoters to be entitled to recover costs.

and in their report to the house the committee shall state what portion of the costs, or what sum for costs, they shall so think fit to award, together with the names of the parties liable to pay the same and the names of the parties entitled to receive the same: Provided always, that no landowner who bonâ fide at his own sole risk and charge opposes a bill which proposes to take any portion of the said petitioner's property for the purposes of the bill shall be liable to any costs in respect of his opposition to such bill.

Proviso.

Costs to be taxed.

**3.** On application made to the taxing officer of the house by such promoters or petitioners, or by their solicitors or parliamentary agents, not later than six calendar months after the report of such committee, and in cases where no sum shall have been named by the committee, with the consent of the parties affected, not until one month after a bill of such costs shall have been delivered (*s*) to the party chargeable therewith, which bill shall be sealed with the seal or subscribed with the proper hand of the parties claiming such costs, or of their solicitor or parliamentary agent, the taxing officer shall examine and tax such costs, and shall deliver to the parties affected, or either or any of them, on application, a certificate signed by himself expressing the amount of such costs, or in cases where a sum for costs shall have been named by the committee, with the consent as aforesaid, such sum as shall have been so named with the name of the party liable to pay the same, and the name of the party entitled to receive the same, and such certificate shall be conclusive evidence as well of the amount of the demand as of the title of the party therein named to recover the same from the party therein stated to be liable to the payment thereof (*t*); and the party claiming under the same shall, upon payment thereof, give a receipt at the foot of such certificate, which shall be a sufficient discharge for the same.

Powers of taxing officer.

* Page 114.

† Page 148.

**4.** All powers given to the taxing officer by the acts 10 & 11 Vict. c. 69,* and 12 & 13 Vict. c. 78,† with reference to the examination of parties and witnesses on oath, and with reference to the production of documents, and with reference to the fees payable in respect of any taxation, shall be vested in the taxing officer for the purposes of this act.

Recovery of taxed costs by action.

**5.** The party entitled to such taxed costs, or such sum named by the committee, with such consent as aforesaid, or his executors or administrators, may demand the whole amount thereof, so certified as above, from any one or more of the persons liable to the payment thereof, and in case of nonpayment thereof on demand may recover the same by action of debt in any of her Majesty's courts of record at Westminster or Dublin, or by action in the court of session in Scotland. In such action it shall be sufficient, in England or Ireland, for the plaintiff to declare that the defendant is indebted to him in the sum mentioned in the said certificate; and the said plaintiff shall, upon filing the said declaration, together with the said certificate and an affidavit of such demand as aforesaid, be at liberty to sign judgment as for want of plea by nil dicit, and take out execution for the said sum so mentioned in the said certificate, together with the costs of the said action, according to due course of law: Provided always, that the validity of such certificate shall not be called in question in any court (*u*).

Form of action in Scotland.

**6.** In such action it shall be sufficient, in Scotland, for the pursuer to allege that the defender is indebted to him in the sum mentioned in the said certificate under the like proviso in regard to the validity of the certificate.

(*s*) See *Williams* v. *Swansea Canal Navigation*, 3 L. R., Ex. 158; 37 L. J., Ex. 107.

(*t*) See *Swansea Canal Navigation* v. *Great Western R. Co.*, 37 L. J., Ch. 238; 18 L. T., N. S. 78.

(*u*) The validity of a certificate based on an informal taxation may be questioned. *Williams* v. *Swansea Canal Navigation*, ubi supra.

7. In every case it shall be lawful for any person from whom the amount of such costs or sum named by the committee with consent as aforesaid has been so recovered to recover from the other persons, or any of them, who are liable to the payment of such costs or sum named by the committee with consent as aforesaid a proportionate share thereof, according to the number of persons so liable, and according to the extent of the liability of each person. Persons paying costs may recover a proportion from other persons liable thereto.

8. In any case in which the committee shall have reported that the preamble is not proved, and where, in accordance with the standing orders of either house of Parliament and of 9 Vict. c. 20, a deposit of money or stock is made with respect to the application to Parliament for an act, the money or stock so deposited shall be a security for the payment by the promoters of the bill for the act of all costs or sums in respect of costs, if any, payable by them under this act; and every party entitled to receive any costs or sums so payable shall accordingly have a lien available in equity for the same on the money or stock so deposited, and the lien shall attach thereon at the time when the bill is first referred to a committee of either house of Parliament: Provided that where several parties have the lien for an amount exceeding in the aggregate the net value of the money or stock, their respective claims shall proportionately abate. When committee report "Preamble not proved," promoters to pay costs out of deposits.

9. When a bill is not promoted by a company already formed, all persons whose names shall appear in such bill as promoting the same, and in the event of the bill passing the company thereby incorporated, shall be deemed to be promoters of such bill for all the purposes of this act. Definition of promoters.

10. For the purposes of this act the expression private bill shall extend to and include any bill for a local and personal act. Meaning of private bill.

11. That this act shall not take effect before 1st November, 1865. Commencement of act.

## 29 & 30 VICT. CAP. 108.

*An Act to amend the Law relating to Securities issued by Railway Companies.* [10th August, 1866.

Be it enacted, by (&c. &c.), as follows:—

1. This act may be cited as "The Railway Companies Securities Act, 1866." Short title.

2. In this act— Interpretation of terms.

The term "railway" includes a tramway authorized by act of parliament incorporating "The Companies Clauses Consolidation Act, 1845," but not any other tramway:

The term "railway company" includes every company authorized by act of parliament to raise any loan capital for the construction or working of a railway, or for any purposes connected with the conveyance by such company of traffic on a railway, either alone or in conjunction with other purposes:

The term "debenture stock" includes mortgage preference stock and funded debt, and any stock or shares representing loan capital of a railway company, by whatever name called:

The term "Act of Parliament" includes a certificate of the board of trade made under "The Railways Construction Facilities Act, 1864," or "The Railway Companies Powers Act, 1864," or any other act of Parliament. 27 & 28 Vict. cc. 120, 121.

Company to have registered officer.

3. Every railway company shall, on or before 15th January, 1867, register, and shall always thereafter keep registered, at the office of the registrar of joint stock companies in England, the name of their secretary, accountant, treasurer, or chief cashier for the time being authorized by them to sign instruments under this act, or, if they think fit, the names of two or more such officers of the company so authorized (and the officer so registered for the time being, and any one of the officers so registered if more than one, is in this act referred to as the company's registered officer).

Half years for purposes of this act

4. Half years shall, for the purposes of this act, be deemed to end on 30th June and 31st December . . . . but the board of trade, on the application of any railway company, may (by writing under the hand of one of their secretaries or assistant secretaries, which shall be registered by the railway company at the office of the said registrar) appoint, with respect to that company, other days for the ending of half years . . . .

Loan capital accounts to be made half-yearly.

5. Within fourteen days after the end of each half year every railway company shall make an account of their loan capital authorized to be raised and actually raised up to the end of that half year, specifying the particulars described in the first schedule to this act, Part I. (which account for each half year is in this act referred to as the loan capital half-yearly account).

Form of half-yearly account.

6. The board of trade may from time to time, by notice published in the London, Edinburgh, and Dublin Gazettes, prescribe the form in which the loan capital half-yearly account is to be made.

Account to be open to shareholders, &c.

7. The loan capital half-yearly account of each company may be perused at all reasonable times, without payment, by any shareholder, stockholder, mortgagee, bond creditor, or holder of debenture stock of the company, or any person interested in any mortgage, bond, or debenture stock of the company.

Deposit of copy of account with registrar of joint stock companies.

8. Within twenty-one days after the end of each half year every railway company shall deposit with the registrar of joint stock companies in England a copy, certified and signed by the company's registered officer as a true copy, of their loan capital half-yearly account.

Deposit in Scotland and Ireland.

9. A railway company may also, if they think fit, deposit with the registrar of joint stock companies in Scotland, or with the assistant registrar of joint stock companies in Ireland, or with each, a like copy of any loan capital half-yearly account of the company.

Prohibition against borrowing before registration of act giving the borrowing power.

10. It shall not be lawful for any railway company at any time to borrow any money on mortgage or bond or to issue any debenture stock, under any act of the present session or passed after the end of the half year to which their then last registered loan capital half-yearly account relates, unless and until they have first deposited with the registrar of joint stock companies in England a statement, certified and signed by the company's registered officer as a true statement specifying the particulars described in the first schedule to this act, Part II.

The board of trade may from time to time by notice published in the London, Edinburgh, and Dublin Gazettes, prescribe the form in which such statement is to be made.

A railway company may also, if they think fit, deposit with the registrar of joint stock companies in Scotland, or with the assistant registrar of joint stock companies in Ireland, or with each, a like copy of any such statement.

Penalty on company failing to register, &c.

11. If at any time any railway company fail to register or keep registered as aforesaid the name of their secretary, accountant, treasurer or chief cashier, or to deposit with the registrar of joint stock companies in England, within the time required by this act, such a copy as aforesaid of any loan capital half-yearly account, or borrow any money on mortgage or bond, or issue any debenture stock, without having first deposited with the registrar

of joint stock companies in England such a statement as they are by this act required to deposit, in any case where they are so required, then and in every such case they shall be deemed guilty of an offence against this act, and shall for every such offence be liable on summary conviction to a penalty not exceeding 20*l.*, and in case of a continuing offence to a further penalty not exceeding 5*l.* for every day during which the same continues after the day on which the first penalty is incurred.

Power to inspect documents on payment of a fee.

**12.** Every person may inspect the documents kept by any registrar or assistant registrar under this act on paying a fee of one shilling, for each inspection as regards each railway company; and any person may require a copy or extract of any of those documents to be certified by the registrar or assistant registrar on paying for such certified copy or extract a fee of sixpence, and a further fee of sixpence for every 200 words or fractional part of 200 words after the first 200 words.

Fees on registration of name of officer, &c.

**13.** Every railway company on registering the name or names of any officer or officers, or depositing any account or statement under this act, shall pay the like fee as is for the time being payable under "The Companies Act, 1862," on registration of any document other than a memorandum of association.

Declaration by directors, &c., on mortgage deed, &c.

**14.** There shall be put (by indorsement or otherwise) on every mortgage deed or bond made or given after 21st January, 1867, by a railway company for securing money borrowed by the company, and on every certificate given after that day by a railway company for any sum of debenture stock issued by the company, a declaration in the form given in the second schedule to this act or to the like effect, with such variations as circumstances require.

Every such declaration shall be signed by two directors of the company specially authorized and appointed by the board of directors to sign such declarations, and by the company's registered officer.

Penalty on company, &c., if declaration omitted

**15.** If after the expiration of the time specified in the last preceding section any railway company deliver any such mortgage deed, bond or certificate without such a declaration being first put thereon and signed as aforesaid, they shall be deemed guilty of an offence against this act, and shall for every such offence be liable on summary conviction to a penalty not exceeding 20*l.*; and if any director or officer of any railway company knowingly authorizes or permits the delivery of any such mortgage deed, bond or certificate without such a declaration being first put thereon and signed as aforesaid, every such person shall be deemed guilty of an offence against this act.

Penalty on registered officer.

**16.** If any director or registered officer of a company signs any declaration, account or statement under this act knowing the same to be false in any particular he shall be deemed guilty of an offence against this act.

Punishment for offences against act.

**17.** If any director or officer of a railway company is guilty of an offence against this act, he shall be liable, on conviction thereof on indictment, to fine or imprisonment, or on summary conviction thereof to a penalty not exceeding 10*l.*

Nothing to affect liability of company, &c.

**18.** Nothing in this act, or in any account, statement or declaration under it, shall affect in any action or suit any question respecting any loan, debt, liability, mortgage bond or debenture stock as between a railway company or any director or officer of a railway company on the one side, and any person or class of persons on the other side.

Account, &c., not to be evidence for company.

**19.** An account, statement or declaration under this act shall not be admissible as evidence in favour of a railway company of the truth of any matter therein stated.

## SCHEDULES.

### THE FIRST SCHEDULE.

#### PART I.

*Particulars to be specified in Loan Capital Half-yearly Account.*

A. Every half-yearly account to show :—

(1.) The act or acts of Parliament under the powers of which the company have contracted any mortgage or bond debt existing at the end of the half year, or have issued any debenture stock then existing, or the act or acts of Parliament by or under which any mortgage or bond debt or debenture stock of the company then existing has been confirmed, and the act or acts of Parliament under which the company have any subsisting power to contract any mortgage or bond debt, or to issue any debenture stock (either on fulfilment of any condition or otherwise) :

(2.) The amount or respective amounts of mortgage or bond debt or debenture stock thereby authorized or confirmed :

(3.) Whether or not by any such act or acts the obtaining of the certificate of a justice or sheriff for any purpose, or the obtaining of the assent of a meeting of the company has been made a condition precedent to the exercise of the power thereby conferred of borrowing on mortgage or bond, or of creating and issuing debenture stock :

(4.) The date at which such condition has been fulfilled :

(5.) The amount or the aggregate amount, under the powers of such act or acts, actually borrowed up to the end of the half year on mortgage or bond (distinguishing them), and then being an existing debt, and of debenture stock actually issued up to that time and then existing :

(6.) The amount or the aggregate amount remaining to be borrowed.

B. The second and every subsequent half-yearly account to show also—

(7.) The items described in paragraphs (2) and (5) of this part of the present schedule for two consecutive half years, and the increase or decrease of any of those items in the second of those half years as compared with the first.

#### PART II.

*Particulars to be specified in Statement as to new Borrowing Power.*

(1.) The act of Parliament conferring the power to borrow on mortgage or bond or to issue debenture stock (either on fulfilment of any condition or otherwise) :

(2.) The amount of mortgage or bond debt or debenture stock thereby authorized :

(3.) Whether or not by such act the obtaining of the certificate of a justice or sheriff for any purpose, or the obtaining of the assent of a meeting of the company, has been made a condition precedent to the exercise of the power thereby conferred of borrowing on mortgage or bond, or of creating and issuing debenture stock :

(4.) The date at which such condition has been fulfilled.

### THE SECOND SCHEDULE.

*Declaration on Mortgage Deed, Bond or Certificate of Debenture Stock.*

The Railway Company.

We, the undersigned, being two of the directors of the company specially authorized and appointed for this purpose, and I, the undersigned registered officer of the company, do hereby declare (each for himself) that the within-written [*or as the case may be*] mortgage deed [*or* bond *or* certificate] is issued under the borrowing powers of the company as registered * on the day of , and is † not in excess of the amount there stated as remaining to be borrowed.

Dated this day of , 18 .

——— } Directors.
——— }

——— { [Secretary *or* accountant, *or as the case may be*] and registered officer.

*Note.—Where the case so requires with reference to a statement under the first schedule, Part II., leave out from the * to the end of the form, and insert :*—on the day of and the day of , and is not in excess of the amounts there stated as remaining and authorized to be borrowed.

*Where the mortgage deed, bond or certificate is issued under a power of re-borrowing, or of issuing debenture stock in discharge of mortgage or bond debt, leave out from the † to the end of the form, and insert :*—in substitution for a mortgage deed [*or* bond] which has since been paid off.

# 30 & 31 VICT. CAP. 104.

*An Act to amend and extend as to Railways in Ireland the Provisions of an Act of the seventh and eighth Years of Victoria, intituled "An Act to attach certain Conditions to the Construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament; and for other Purposes in relation to Railways."*
[15th August, 1867

Whereas it is expedient to amend an act passed in the session of Parliament holden in the seventh and eighth years of the reign of her present Majesty, intituled "An Act to attach certain Conditions to the Construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament; and for other Purposes in relation to Railways," so far as the same relates to the furnishing of accounts to the commissioners of her Majesty's treasury by railway companies in Ireland:

7 & 8 Vict. c. 85, ante, p. 25.

Be it enacted, by (&c. &c.), as follows:

Power to Treasury to call for accounts of any railway company in Ireland.

**1.** It shall be lawful for the commissioners of her Majesty's treasury to direct any railway company in Ireland to furnish to them, on such day as they shall appoint, a full and true account of all monies received and paid during a period of three years previous to the date of the last half-yearly account of such company on account of such railway or of any undertaking connected therewith (distinguishing, if the said railway shall be a branch railway or one worked in common with other railways, the receipts, and giving an estimate of the expenses on account of the said railway, from those on account of the trunk line or other railways), by the directors of the company to whom such railway belongs or by whom the same may be worked; and also on account of the assets and liabilities of such company, at such time or times during the said period as the said commissioners shall specify; and such accounts shall be duly audited and certified under the hands of two or more of the directors of such company.

Power to Treasury to appoint persons to inspect accounts, &c., of railway companies in Ireland.

**2.** It shall be lawful for the commissioners of her Majesty's treasury, if and when they shall think fit, to appoint any proper person or persons for all or any of the purposes following; (that is to say,)

To inspect the accounts and books of any railway company in Ireland during the period of three years previous to the date of the last half-yearly account of such company;

To examine the railway, stations, works, buildings, engines, carriages and other property, of whatsoever kind, belonging to any railway company in Ireland;

And any person so appointed may at all reasonable times, upon producing his authority, if required, inspect the books, accounts and vouchers, and other documents of such company, at the principal place of business of such company, and may take copies or extracts therefrom, and enter upon and examine the railway or railways, and the stations, works and buildings belonging to such company, and may inspect the engines and carriages and other property, of whatever kind, belonging to such company; and every such person may call for the production of any books, accounts, vouchers or documents in the possession or power of such company which he may think necessary for the purpose of determining any question or questions connected with the inspection or examination which he is authorized to make, and may examine any person touching any matters connected therewith on oath, and may administer the oaths necessary for that purpose.

## 30 & 31 VICT. CAP. 127.

*An Act to amend the Law relating to Railway Companies.*
[20th August, 1867.

Be it enacted, by (&c. &c.), as follows :

*Preliminary.*

Short title. **1.** This act may be cited as "The Railway Companies Act, 1867."

Extent of act. **2.** Except as in this act expressly otherwise provided, this act shall not extend to Scotland (*x*).

Interpretation of terms. **3.** In this act—

The term "company" means a railway company; that is to say, a company constituted by act of Parliament, or by certificate under act of Parliament, for the purpose of constructing, maintaining, or working a railway (either alone or in conjunction with any other purpose);

The term "action" includes suit or other proceeding;

The term "judgment" includes decree, order, or rule:

The term "share" includes stock:

The term "person" includes corporation:

The term "court of chancery" or "court" means the court of chancery in England or Ireland, as the case requires:

The term "gazette" means, with respect to England, the London Gazette, and with respect to Ireland the Dublin Gazette.

*Protection of Rolling Stock and Plant.*

Rolling stock not to be taken in execution. **4.** The engines, tenders, carriages, trucks, machinery, tools, fittings, materials, and effects, constituting the rolling stock and plant used or provided by a company for the purposes of the traffic on their railway, or of their stations or workshops, shall not, after their railway or any part thereof is open for public traffic, be liable to be taken in execution at law or in equity at any time after the passing of this act (*y*) . . . . where the judgment on which execution issues is recovered in an action on a contract entered into after the passing of this act, or in an action not on a contract commenced after the passing of this act; but the person who has recovered any such judgment may obtain the appointment of a receiver, and, if necessary, of a manager, of the undertaking of the company, on application by petition in a summary way to the court of chancery in England or in Ireland, according to the situation of the railway of the company; and all money received by such receiver or manager shall, after due provision for the working expenses of the railway and other proper outgoings in respect of the undertaking, be applied and distributed under the direction of the court in payment of the debts of the company and otherwise according to the rights and priorities of the persons for the time being interested therein; and on payment of the amount due to every such judgment creditor as aforesaid the court may, if it think fit, discharge such receiver or such receiver and manager.

Determination of questions respecting executions. **5.** If in any case where property of a company has been taken in execution a question arises whether or not it is liable to be so taken notwithstanding this act, the same may be heard and determined on an application

(*x*) See 30 & 31 Vict. c. 126, amended by 31 & 32 Vict. c. 79, as to Scotland.

(*y*) The section is now perpetual: see 38 & 39 Vict. c. 31, post.

by either party by summons in a summary way to the court out of which the execution issued, or if the court is one of the superior courts of law, then to a judge of any one of those courts, and such determination shall be final and binding.

*Arrangements.*

**6.** Where a company are unable to meet their engagements with their creditors the directors may prepare a scheme of arrangement between the company and their creditors (with or without provisions for settling and defining any rights of shareholders of the company as among themselves, and for raising, if necessary, additional share and loan capital, or either of them), and may file the same in the court of chancery in England or in Ireland, according to the situation of the principal office of the company, with a declaration in writing under the common seal of the company to the effect that the company are unable to meet their engagements with their creditors, and with an affidavit of the truth of such declaration made by the chairman of the board of directors and by the other directors, or the major part in number of them, to the best of their respective judgment and belief.

Preparation and filing of scheme of arrangement. [See vol. I. ch. XV.]

**7.** After the filing of the scheme, the court may, on the application of the company on summons or motion in a summary way, restrain any action against the company on such terms as the court thinks fit.

Stay of actions.

**8.** Notice of the filing of the scheme shall be published in the Gazette.

Notice in Gazette.

**9.** After such publication of notice no execution, attachment, or other process against the property of the company shall be available without leave of the court, to be obtained on summons or motion in a summary way.

Stay of executions, &c.

**10.** The scheme shall be deemed to be assented to by the holders of mortgages or bonds issued under the authority of the company's special acts when it is assented to in writing by three fourths in value of the holders of such mortgages or bonds, and shall be deemed to be assented to by the holders of debenture stock of the company when it is assented to in writing by three fourths in value of the holders of such stock.

Assent by mortgagees, &c.

**11.** Where any rentcharge or other payment is charged on receipts of or is payable by the company in consideration of the purchase of the undertaking of another company, the scheme shall be deemed to be assented to by the holders of such rentcharge or other payment when it is assented to in writing by three fourths in value of such holders.

Assent by holders of rentcharge, &c.

**12.** The scheme shall be deemed to be assented to by the guaranteed or preference shareholders of the company when it is assented to in writing as follows:—If there is only one class of guaranteed or preference shareholders, then by three fourths in value of that class, and if there are more classes of guaranteed or preference shareholders than one, then by three fourths in value of each such class.

Assent by preference shareholders.

**13.** The scheme shall be deemed to be assented to by the ordinary shareholders of the company when it is assented to at an extraordinary general meeting of the company specially called for that purpose.

Assent by ordinary shareholders.

**14.** Where the company are lessees of a railway the scheme shall be deemed to be assented to by the leasing company when it is assented to as follows:

Assent by leasing company.

In writing by three fourths in value of the holders of mortgages, bonds, and debenture stock of the leasing company:

If there is only one class of guaranteed or preference shareholders of the leasing company, then in writing by three fourths in value of that class, and if there are more classes of guaranteed or preference

shareholders in the leasing company than one, then in writing by three fourths in value of each such class :

By the ordinary shareholders of the leasing company at an extraordinary general meeting of that company specially called for that purpose.

Assent of creditors, &c., not affected, unnecessary.

**15.** Provided that the assent to the scheme of any class of holders of mortgages, bonds, or debenture stock, or of any class of holders of a rent-charge or other payment as aforesaid, or of any class of guaranteed or preference shareholders, or of a leasing company, shall not be requisite in case the scheme does not prejudicially affect any right or interest of such class or company.

Application for confirmation of scheme.

**16.** If at any time within three months after the filing of the scheme, or within such extended time as the court from time to time thinks fit to allow, the directors of the company consider the scheme to be assented to as by this act required, they may apply to the court by petition in a summary way for confirmation of the scheme.

Notice of any such application, when intended, shall be published in the Gazette.

Confirmation of scheme.

**17.** After hearing the directors, and any creditors, shareholders, or other parties whom the court thinks entitled to be heard on the application, the court, if satisfied that the scheme has been within three months after the filing of it, or such extended time (if any) as the court has allowed, assented to as required by this act, and that no sufficient objection to the scheme has been established, may confirm the scheme.

Enrolment and effect of scheme.

**18.** The scheme when confirmed shall be enrolled in the court, and thenceforth the same shall be binding and effectual to all intents, and the provisions thereof shall, against and in favour of the company and all parties assenting thereto or bound thereby, have the like effect as if they had been enacted by Parliament.

Notice of confirmation of scheme.

**19.** Notice of the confirmation and enrolment of the scheme shall be published in the Gazette.

Company to keep printed copies of scheme for sale.

**20.** The company shall at all times keep at their principal office printed copies of the scheme, when confirmed and enrolled, and shall sell such copies to all persons desiring to buy the same at a reasonable price, not exceeding sixpence for each copy.

Penalty for neglect.

If the company fail to comply with this provision they shall be liable to a penalty not exceeding 20*l.*, and to a further penalty not exceeding 5*l.* for every day during which such failure continues after the first penalty is incurred, which penalties shall be recovered and applied as penalties under "The Railways Clauses Consolidation Act, 1845" (*z*), are recoverable and applicable.

Provision for cases where railways or part in Scotland.

**21.** Where a company whose principal office is situate in England have a railway or part of a railway in Scotland the following provisions shall have effect :

(1.) Any scheme under this act shall be filed in the court of chancery in England :

(2.) Where after the filing of the scheme any person who is not amenable to the jurisdiction of the court of chancery in England brings any action against the company in Scotland, the court of session may on the application of the company by petition in a summary way, sist, stay or interdict the same on such terms as the court thinks fit :

(3.) Notice of the filing of the scheme shall be published in the Edinburgh Gazette, and after such publication no diligence

(*z*) 8 Vict. c. 20, s. 110 et seq., ante, p. 129.

against the property of the company in Scotland shall be available for any person who is not amenable to the jurisdiction of the court of chancery in England without the leave of the court of session to be obtained on petition in a summary way:

In this section the term "court of session" means either division of the court of session, or in time of vacation the lord ordinary officiating on the bills.

22. The lord chancellor of Great Britain, with the advice and assistance of the lords justices of the court of appeal in chancery, the master of the rolls and the vice-chancellors or any two of those judges, and the lord chancellor of Ireland, with the advice and assistance of the lord justice of appeal in chancery and the master of the rolls or one of them, may from time to time make general orders for the regulation of the practice of the courts of chancery in England (*a*) and Ireland respectively under this act. General orders for regulation of practice in Court of Chancery.

*Loan Capital.*

23. All money borrowed or to be borrowed by a company on mortgage or bond or debenture stock under the provisions of any act authorizing the borrowing thereof shall have priority against the company and the property from time to time of the company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this act: Provided always, that this priority shall not affect any claim against the company in respect of any rentcharge granted or to be granted by them in pursuance of "The Lands Clauses Consolidation Act, 1845," or "The Lands Clauses Consolidation Acts Amendment Act, 1860," or in respect of any rent or sum reserved by or payable under any lease granted or made to the company by any person in pursuance of any act relating to the company which is entitled to rank in priority to, or pari passu with, the interest or dividends on the mortgages, bonds and debenture stock; nor shall anything hereinbefore contained affect any claim for land taken, used or occupied by the company for the purposes of the railway, or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the company. Priority of mortgages

24. Any company may create and issue debenture stock subject to the provisions of Part III. of "The Companies Clauses Act, 1863"* (relating to debenture stock), and the said Part III. shall, with respect to any special act of a company incorporating that part, whether passed or to be passed, be read and have effect as if the following words, that is to say, "not exceeding the rate prescribed in the special act, and if no rate is prescribed then not exceeding the rate of four pounds per centum per annum," had not been inserted in section twenty-two of that act; and for the purposes of the present section this act shall be deemed a special act passed incorporating that part; and any special act of a company passed before the passing of this act prescribing any rate shall be read and have effect as if no rate had been prescribed therein. Power to issue debenture stock subject to Part III. of C. C. Act, 1863.

* Ante, p. 217.

25. Provided that any debenture stock the creation whereof has been authorized by a company, but which has not been issued, before the passing of this act, shall not be issued on any terms other than those whereon it might have been issued if this act had not been passed, unless and until the Restriction on rate of interest on debenture stock already authorized.

(*a*) The General Orders first issued (post, p. 263) are still in force in the Chancery Division: see Judicature Act, 1875, s. 21.

issue thereof on terms other than as aforesaid is after the passing of this act authorized by the company in manner provided in section twenty-two of "The Companies Clauses Act, 1863."*

* Ante, p. 217.

Advances to meet debentures falling due.

26. Money borrowed by a company for the purpose of paying off, and duly applied in paying off, bonds or mortgages of the company given or made under the statutory powers of the company, shall, so far as the same is so applied, be deemed money borrowed within and not in excess of such statutory powers

*Share Capital.*

Power to issue shares or stock at discount.

† Ante, p. 217.

27. Section twenty-one of "The Companies Clauses Act, 1863,"† shall, with respect to any special act of a company incorporating Part II. of that act, whether passed or to be passed, be read and have effect as if the following words, that is to say, "but so that not less than the full nominal amount of any share or portion of stock be payable or paid in respect thereof," had not been inserted in that section.

Power to issue residue of original or other capital at discount

28. Any shares forming part of the capital (whether original or additional) authorized to be raised by any special act of a company passed before the present session, which have not been disposed of, may be disposed of in manner provided by Part II. of "The Companies Clauses Act, 1863," as amended by this act, and that part, as so amended, shall be deemed incorporated with such special act accordingly.

Restriction on issuing at discount of shares or stock already authorized

29. Provided that any shares the creation whereof has been authorized by a company, but which have not been issued, before the passing of this act, shall not be issued on any terms other than those whereon the same might have been issued if this act had not been passed, unless and until the issue thereof on terms other than as aforesaid is after the passing of this act authorized by the company in manner provided by Part II. of "The Companies Clauses Act, 1863."

Audit of railway accounts

30. No dividend shall be declared by a company until the auditors have certified that the half-yearly accounts proposed to be issued contain a full and true statement of the financial condition of the company, and that the dividend proposed to be declared on any shares is bonâ fide due thereon after charging the revenue of the half year with all expenses which ought to be paid thereout in the judgment of the auditors; but if the directors differ from the judgment of the auditors with respect to the payment of any such expenses out of the revenue of the half year, such difference shall, if the directors desire it, be stated in the report to the shareholders, and the company in general meeting may decide thereon, subject to all the provisions of the law then existing, and such decision shall for the purposes of the dividend be final and binding; but if no such difference is stated, or if no decision is given on any such difference, the judgment of the auditors shall be final and binding; and the auditors may examine the books of the company at all reasonable times, and may call for such further accounts, and such vouchers, papers and information as they think fit, and the directors and officers of the company shall produce and give the same as far as they can, and the auditors may refuse to certify as aforesaid until they have received the same; and the auditors may at any time add to their certificate, or issue to the shareholders independently at the cost of the company, any statement respecting the financial condition and prospects of the company which they think material for the information of the shareholders.

*Abandonment.*

**31.** "The Abandonment of Railways Act, 1850,"* shall extend and apply to all companies authorized to make railways by act of Parliament passed before the present session, subject and according to the following provisions :

Abandonment of Railways Act, 1850, to apply to all companies authorized to make railways before this session.

[(1.) *Amendment of section thirty-one of act of* 1850 : Repealed, together with the amended section, by 32 & 33 Vict. c. 114, s. 10, post.]

(2.) Section thirty-five of the said act of 1850 shall be read and have effect as if the date of 21st May, 1867, were therein substituted for the date of 11th February, 1850 :

(3.) Nothing in the said act of 1850 or this act shall be deemed to make it obligatory on the board of trade to authorize the abandonment of a railway or part of a railway on any application in that behalf, and the board of trade shall not authorize such abandonment in any case unless it appears to them just and expedient so to do, and the board of trade may, if they think fit, refuse in any case to authorize such abandonment, except on condition of the money deposited as security for the completion of the railway, or the stocks, funds or securities on which the same is invested, or the money secured by any bond conditioned for completion of the railway, or for payment of money in default thereof, being applied as part of the assets of the company.

* Ante, p. 155.

**32.** Where it is shown to the satisfaction of the board of trade, with respect to a company authorized to make a railway by act of Parliament passed before the present session, that no part, or a part less than three fifths, of the share capital of the company, has been subscribed, the board of trade may, if they think fit, proceed under the said act of 1850, as extended by this act, on the application of any person named in the special act incorporating the company as a member or director thereof, or of any person named in the warrant or order directing payment of any deposit under any standing order of either house of Parliament, or of any person who has lent the amount of such deposit, or any part thereof, or has entered into any bond conditioned for the completion of the railway, or for payment of any money in default thereof, and without the preliminary consent of a meeting of shareholders of the company.

Abandonment where three-fifths of capital not subscribed.

**33.** The authority given under this act for the abandonment by a company of any railway or part of a railway shall not affect the right of the owner or occupier of any lands that have been temporarily occupied by the company to receive compensation, in accordance with the provisions of "The Railways Clauses Consolidation Act, 1845," for such temporary occupation, or for any loss, damage or injury that has been sustained by him by reason thereof, or of the exercise as regards such lands of any of the company's powers.

Compensation for damage to land by entry, &c.

**34.** Where a warrant for abandonment is granted under "The Abandonment of Railways Act, 1850," as extended by this act, the commissioners of her Majesty's treasury may cancel and deliver up any bond entered into by or on behalf of a railway company for securing the completion of a railway, or, in case the abandonment be of part of the railway only, may cancel and deliver up such bond on receiving another bond in lieu thereof conditioned for payment of a due proportionate part of the amount secured by such former bond ; and any money remaining deposited as security for the completion of the railway, or the stocks, funds or securities in which the same is invested, or any bank annuities, stocks, funds, securities or exchequer bills remaining deposited as such security, or in case the abandonment authorized is of part only of a railway then such pro-

Cancellation of bonds for completion of railways and release of deposit.

portionate part as the board of trade thinks fit of such money, stocks, funds, securities, annuities or exchequer bills, shall be paid, transferred or delivered out to the persons who would be entitled to receive the same if the railway had been completed and opened for public traffic; and the court of chancery shall, on the application of those persons, order payment, transfer or delivery out thereof accordingly, on a certificate of the board of trade certifying that such a warrant for abandonment has been granted.

Protection for Board of Trade in case of error.

**35.** The issuing in any case of any warrant or certificate relating to deposit, or to any money, stocks, funds, securities, bank annuities or exchequer bills deposited, or any error in any such warrant or certificate, or in relation thereto, shall not make the board of trade, or the person signing the warrant or certificate on their behalf, in any manner liable for or in respect of the money, stocks, funds, securities, bank annuities or exchequer bills deposited, or the interest of or dividends on the same, or any part thereof respectively.

*Purchase of Lands.*

Amendment (as to railway companies) of sect. 85 of 8 & 9 Vict. c. 18.

* Page 119, ante.

**36.** Where after the passing of this act a company exercise the powers conferred on the promoters of the undertaking by section eighty-five* of "The Lands Clauses Consolidation Act, 1845," the following provisions shall have effect:

(1.) The surveyor to be appointed as in that section provided shall be appointed by the board of trade instead of by two justices, and all the provisions of that act relative to a surveyor appointed by two justices shall apply to a surveyor so appointed by the board of trade:

(2.) The company shall give not less than seven days' notice of their intention to apply to the board of trade for the appointment of a surveyor to any party interested in or entitled to sell and convey the lands in question, and not consenting to the entry of the company:

(3.) The valuation to be made by the surveyor so appointed shall include the amount of compensation for all damage and injury to be sustained by reason of the exercise of the powers conferred by the said section, as far as such damage and injury are capable of estimation:

(4.) The sureties to the bond to be given by the company under that section shall, in case the parties differ, instead of being approved of by two justices, be approved of by the board of trade, after hearing the parties.

[Sect. 37. *Costs of arbitrations as to lands:* Repealed, 38 & 39 Vict. c. 66.]

*The following ORDER was made under* 30 & 31 *Vict. c.* 127, *s.* 22:—

# ORDER OF COURT.

*Friday, the 24th day of January*, 1868.

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THE RIGHT HONORABLE FREDERIC BARON CHELMSFORD, Lord High Chancellor of Great Britain, with the advice and assistance of the RIGHT HONORABLE JOHN LORD ROMILLY, Master of the Rolls, the RIGHT HONORABLE HUGH MCCALMONT LORD CAIRNS, one of the Lords Justices of the Court of Appeal in Chancery, the HONORABLE THE VICE-CHANCELLOR SIR JOHN STUART, the HONORABLE THE VICE-CHANCELLOR SIR WILLIAM PAGE WOOD, and the HONORABLE THE VICE-CHANCELLOR SIR RICHARD MALINS, doth hereby, in pursuance and execution of the powers given by the statute 30th and 31st Victoria, chapter 127, and of all other powers and authorities enabling him in that behalf, order and direct in manner following:—

## PART I.

### SCHEMES OF ARRANGEMENT.

*Preparation and filing of Scheme.*

**1.** Every scheme to be filed in the court of chancery, pursuant to the statute 30th and 31st Victoria, chapter 127, section 6, and every declaration, affidavit, petition, summons, notice or other proceeding relative thereto, shall be intituled in the matter of "The Railway Companies Act, 1867," and in the matter of the company in question.

**2.** Every such scheme shall be marked either with the words "Lord Chancellor" and the name of one of the vice-chancellors, or with the words "Master of the Rolls," and the matter of such scheme (unless removed by some special order of the lord chancellor or the lords justices) shall accordingly be attached to the court of such vice-chancellor, or to the court of the master of the rolls, as the case may be, in like manner and for the same purposes as causes are attached to a particular court.

**3.** Every scheme to be filed as aforesaid shall be printed on paper of the same size and description, and in the same style and manner, as bills in chancery are required to be printed, or shall be written bookwise upon paper of the same size and description as last aforesaid.

**4.** Every declaration and affidavit to be filed as mentioned in the 6th section of the said act, shall be written bookwise upon paper of the same size and description as that on which bills are printed.

**5.** Every such scheme shall be filed in the office of the clerks of records and writs, and the declaration and affidavit required by section 6 of the said act shall be annexed to such scheme and filed at the same time therewith, and the clerks of records and writs shall not file any such scheme, unless accompanied by such declaration and affidavit.

**6.** There shall be endorsed upon every scheme so filed as aforesaid the name and address of the solicitor and London agent (if any) of the company, and also the address for service of such solicitor in cases where an address for service is required by the general orders of the court.

**7.** Where a written scheme is filed, the person bringing the same to be filed, shall, at the same time, leave with the clerks of records and writs a fair copy thereof, and the clerks of records and writs are to examine such copy

with the scheme filed, and return it so examined with a certificate thereon that it is correct and proper to be printed.

**8**. The directors are then to cause the scheme to be printed from such certified copy, on paper of the same size and description, and in the same type, style, and manner, as bills are required to be printed, and, before the expiration of four days from the filing of the scheme, are to leave a printed copy thereof with the clerks of records and writs, with a written certificate thereon by the solicitor of the company that such print is a true copy of the scheme so certified, and after the expiration of such four days no evidence of the scheme having been filed shall be admissible until such printed copy thereof has been filed.

**9**. Every fifth line of each page of a printed scheme shall be numbered.

*Copies of Scheme.*

**10**. At any time after the expiration of four days from the filing of a scheme, whether printed or written, any person may demand, by a requisition in writing, delivered at the principal office of the company, or at the office of their solicitor, or of his London agent (if any) any number, not exceeding ten, of printed copies of the scheme, and the copies so required shall on such demand be delivered to the person so requiring the same, with a written certificate thereon by the solicitor of the company that they are true copies of the scheme filed.

**11**. Every such copy is on delivery to be paid for at the rate of one halfpenny per folio, except in the case provided for by the 20th section of the said act, in which case it is to be paid for at the rate prescribed by the said act.

*Notice of filing Scheme.*

**12**. The notice, to be published in the Gazette, of the filing of the scheme shall be signed by the solicitor of the company, or his London agent, and shall state whether the scheme contains any provisions for settling and defining any rights of shareholders among themselves, or for raising any and what amount of share or loan capital, and which, and shall set forth the name and address of the solicitor and London agent (if any) of the company, and may be in the form No. 1 in the 3rd schedule hereto, with such variations as the circumstances of the case may require.

*Certificate of Filing.*

**13**. When a scheme has been filed one of the clerks of records and writs shall, at the request of any person, give and sign a certificate of the filing thereof, or of the filing of a printed copy thereof; and such certificate may be in the following form, with such variations as the circumstances of the case may require.

*In the Matter of the Railway Companies Act,* 1867, *and In the Matter of the* *Railway Company.*

I do hereby certify that a [printed *or* written, *as the case may be*] scheme of arrangement between the above-named company and their creditors, under the statute 30 and 31 Victoria, chapter 127, section 6, was, on the day of 18 , duly filed in the High Court of Chancery in England, together with the declaration and affidavit required by the said statute [and that a printed copy of such scheme was on the day of , duly filed in the said court pursuant to the general order of court made in that behalf], as appears by my book. Dated, &c.

A. B.,
Clerk of Records and Writs, of the High
Court of Chancery in England.

*Restraining Actions after Scheme filed.*

**14.** No order, under section 7 of the said act, for restraining an action against the company, by reason of a scheme having been filed, shall be made, except on an undertaking by the company to be answerable in such damages (if any) as the court, or the judge in chambers, may think fit to award in the event of the plaintiff being ultimately held entitled to proceed with such action; and on such further terms (if any) as the court or judge may think reasonable.

*Petition for Confirmation of Scheme.*

**15.** Every petition for confirmation of a scheme shall be presented by the directors or the major part of them. Such petition shall not set forth the scheme, but only refer thereto; and may be in the form No. 2, in the third schedule hereto, with such variations as the circumstances of the case may require.

**16.** The petitioners presenting such petition as aforesaid shall, for the purposes of such petition, be treated as representing the company, and the company shall not otherwise appear on the hearing of such petition.

**17.** When any petition to confirm a scheme is presented, the directors shall apply to the judge in chambers to appoint the day on which the same is to come into the paper for hearing, such day not to be before the expiration of three weeks from the time of such application, and shall cause a notice of the presentation thereof to be inserted as follows; (that is to say,)

(1.) In the case of a company whose principal office is within ten miles from the General Post Office, in the London Gazette, and in such two London daily morning newspapers as the judge in chambers shall direct:

(2.) In the case of any other company, in the London Gazette, and in such two local newspapers circulating in the district where the principal office of such company is situate, as the judge in chambers shall direct.

Such notice shall state the day on which the scheme was filed, and the day on which the petition was presented, and the day on which the same is directed to come into the paper for hearing, and the name and address of the solicitor and London agent (if any) of the company, and may be in the form No. 3 in the third schedule hereto, with such variations as the circumstances of the case may require.

**18.** The petition shall not come on to be heard until at least fourteen clear days after the insertion of such notice as aforesaid. Such notice shall, at least once in every entire week, reckoned from Sunday morning to Saturday evening, which shall have elapsed between the time of the first insertion thereof, and the day on which such petition is directed to come into the paper for hearing, be again inserted in such two London or local newspapers as aforesaid on such day or days as the judge in chambers shall direct.

**19.** Any creditor, shareholder, or other party whose rights or interests are affected by such scheme, and who shall be desirous to be heard in opposition to the confirmation thereof, shall, at least two clear days before the day on which the petition for confirmation is directed to come into the paper for hearing, enter an appearance at the office of the clerks of records and writs; and, in default of so doing, shall not be entitled to be heard, unless by the special leave of the court.

**20.** Any person so entering an appearance shall be deemed to have submitted himself to the jurisdiction of the court as to the payment of costs and otherwise.

*Confirmation of Scheme.*

**21.** No scheme shall be deemed to have been confirmed by the Court of Chancery until an order for confirming the same has been inrolled.

**22.** Notice of any order for confirming a scheme shall, at least once in every entire week, reckoned from Sunday morning to Saturday evening, which shall elapse between the pronouncing of such order and the expiration of thirty days from the pronouncing thereof, be inserted in such two newspapers as shall have been appointed by the judge for the insertion of advertisements under the 17th rule hereof. And the clerk of records and writs shall not give his certificate that the docket of the inrolment of any such order is correct, unless the newspapers containing such notices be produced to him when the docket of such inrolment is presented to him for inspection.

**23.** No order for confirming a scheme shall be inrolled until the expiration of thirty days from the day of the same having been pronounced, exclusive of vacations.

**24.** No caveat shall be entered to stay the inrolment of any order for confirming a scheme, but every such order may be inrolled at the expiration of thirty days from the day of the same being pronounced, unless in the meantime a petition for a rehearing shall have been presented, and an order for setting down such petition obtained and served, such thirty days to be exclusive of vacations.

**25.** No petition for a rehearing either before the same judge or before the lord chancellor or the lords justices, of the case on which any order for confirming or order refusing to confirm a scheme has been made, shall, unless by the special leave of the lord chancellor or the lords justices, be presented after the expiration of thirty days, exclusive of vacations, from the day on which such order was pronounced, notwithstanding that such order may not have been inrolled.

**26.** Where an order has been made for confirming a scheme, no person who has neither entered an appearance as aforesaid, nor by virtue of such special leave as aforesaid been heard in opposition to the confirmation of the scheme, shall be at liberty to present a petition for rehearing before the same judge or before the Lord Chancellor or the Lords Justices, unless the Lord Chancellor or the Lords Justices shall by special order to be applied for by motion on notice to the company to be served on their solicitor or at their principal office, give leave to such person to present a petition for a rehearing.

**27.** Where any petition for a rehearing of a petition for confirmation of a scheme is presented, the same certificate of counsel, the same subscription by the petitioner or his solicitor with respect to costs, and the same deposit, shall be requisite as are required for a rehearing when a decree has been made at a hearing of a cause.

**28.** The inrolment of a scheme in pursuance of the 18th section of the said act shall be effected in the same manner as the inrolment of a deed directed by statute to be inrolled in the Court of Chancery.

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## PART II.

### PROTECTION OF ROLLING STOCK AND PLANT.

**29.** Every petition under "The Railway Companies Act, 1867," section 4, shall be intituled in the matter of the act and in the matter of the company in question, and shall be marked either with the words "Lord

Chancellor," and the name of one of the Vice-Chancellors, or with the words "Master of the Rolls."

**30.** Such petition shall be served on the company only, but the court may at the hearing, if it shall so think fit, adjourn the same for the purpose of service on such other parties, if any, as the court shall think fit.

**31.** Every order appointing a receiver or manager under the last-mentioned section shall direct such accounts and inquiries as the court may think fit for ascertaining the debts of the company and the rights and priorities of the persons interested in the monies to come to the hands of such receiver or manager.

**32.** Every summons in chancery under "The Railway Companies Act, 1867," section 5, shall be intituled in the matter of the said act and in the cause or matter in which the execution in question was issued, and such summons shall be issued out of the chambers of the judge to whose court such cause or matter is attached, and such rules and practice of the Court of Chancery as are applicable to summonses for the purpose of proceedings not originating in chambers and to the proceedings thereunder shall be applicable to such summons and the proceedings thereunder.

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## PART III.

### GENERAL PROVISIONS.

**33.** All orders made in chambers under "The Railway Companies Act, 1867," shall be drawn up in chambers unless specially directed to be drawn up by the registrar, and shall be entered in the same manner and in the same office as other orders drawn up in chambers.

**34.** In cases not expressly provided for by the said act or by the rules of this order, the general orders and practice of the court (including the course of proceeding and practice in the judge's chambers, and the course of proceeding and practice as to rehearings before the same judge, or before the Lord Chancellor or Lords Justices) shall, so far as such general orders and practice are applicable and not inconsistent with the said act or this order, apply to all proceedings in the Court of Chancery under the said act.

**35.** The power of the court and of the judge in chambers to enlarge or abridge the time for doing any act or taking any proceeding, to adjourn or review any proceeding, and to give any direction as to the course of proceeding, shall be the same in proceedings in chancery under the said act, as in proceedings under the ordinary jurisdiction of the court.

**36.** Solicitors shall be entitled to charge and be allowed the fees set forth or referred to in the 1st schedule hereto unless the court or judge shall otherwise specially direct.

**37.** The fees of court set forth and referred to in the 2nd schedule hereto shall be paid in relation to proceedings in chancery under the said act, and shall be collected by means of stamps in manner provided by the general orders of the court.

**38.** The general interpretation clause contained in the consolidated orders of the Court of Chancery shall extend and apply to this order, and this order shall be deemed one of the general orders of the court.

**39.** This order shall come into operation on Monday the 3rd day of February, 1868, and shall apply to all schemes filed under the said act, and to all proceedings in chancery to be had under the same act: Provided always, that all proceedings taken under the said act before this order shall have come into operation shall have the same validity as they would have had if this order had not been made.

## THE FIRST SCHEDULE.

FEES AND CHARGES TO BE ALLOWED TO SOLICITORS

For all duties performed under "The Railway Companies Act, 1867," such of the fees on the higher scale authorized by the 2nd rule of the 38th of the Consolidated Orders and the regulations as to Solicitors' Fees subjoined thereto, as are applicable, unless the court or judge shall otherwise specially direct.

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## THE SECOND SCHEDULE.

FEES TO BE COLLECTED BY MEANS OF STAMPS.

*In the Judges' Chambers.*

Such of the fees as are directed to be paid and collected by the 2nd rule of the 39th of the Consolidated Orders, and the regulations subjoined thereto, as are applicable.

*In the Registrars' Office.*

Such of the fees as are directed to be paid and collected by the 2nd rule of the 39th of the Consolidated Orders, and the regulations subjoined thereto, as are applicable.

*In the Records and Writs Clerks' Office.*

| | £ | s. | d. |
|---|---|---|---|
| For filing every scheme of arrangement . . . . . . . . . . | 1 | 0 | 0 |
| For every certificate of filing a scheme of arrangement . . . . . . | 0 | 5 | 0 |

Such other fees as are directed to be paid and collected by the 2nd rule of the 39th of the Consolidated Orders, and the regulations subjoined thereto, as are applicable.

*In the Examiners' Office.*

Such of the fees as are directed to be paid and collected by the 2nd rule of the 39th of the Consolidated Orders, and the regulations subjoined thereto, as are applicable.

*In the Taxing Masters' Office.*

Such of the fees as are directed to be paid and collected by the 2nd rule of the 39th of the Consolidated Orders, and the regulations subjoined thereto, as are applicable.

*In the Office of the Lord Chancellor's Principal Secretary.*

| | £ | s. | d. |
|---|---|---|---|
| For every petition . . . . . . . . . . . . . . . | 1 | 0 | 0 |

*In the Office of the Secretary at the Rolls.*

| | £ | s. | d. |
|---|---|---|---|
| For every petition . . . . . . . . . . . . . . . | 1 | 0 | 0 |

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## THE THIRD SCHEDULE.

### No. 1. *Advertisement of Scheme.*

[*See Rule* 10.]

In the matter of the Railway Company; and in the matter of the Railway Companies Act, 1867.

Notice is hereby given, that on the day of 18 , a scheme of arrangement between the above-named company and their creditors [*state here whether the scheme contains or not any provisions for settling the rights of any and what classes of shareholders as among themselves, or for raising additional share or loan capital, and which, and to what extent*] was filed in the Court of Chancery, and a copy of the said scheme will be furnished to any person requiring the same by the undersigned, or at the office of the company, at on payment of the regulated charges for the same.

A. and B., of [Agents for C. and D., of ],
Solicitors for the company.

No 2. *Petition to confirm Scheme.*

[*See Rule* 15.]

In the matter of the Railway Company ; and in the matter of the Railway Companies Act, 1867.

To the Right Honourable the Lord High Chancellor of Great Britain [*or*, to the Right Honourable the Master of the Rolls, *as the case may be*].

The humble petition of directors of the above-named company,

Sheweth,

That on the day , the directors of the above-named company filed in this honourable court, a scheme of arrangement between the above-named company and their creditors.

Your petitioners therefore humbly pray that the scheme so filed as aforesaid may be confirmed by the order of this honourable court.

And your petitioners will ever pray, &c.

No. 3. *Advertisement of Petition to confirm a Scheme.*

[*See Rule* 17.]

In the matter of the Railway Company ; and in the matter of the Railway Companies Act, 1867.

Notice is hereby given that a petition was, on the day of 18 , presented to the Lord Chancellor [*or* the Master of the Rolls] by the directors of the above-named company, praying the confirmation of a scheme of arrangement between the said company and their creditors, filed in the Court of Chancery on day of . And that the said petition is directed to be heard before the Vice-Chancellor Sir [*or* before the Master of the Rolls] on the day of , 18 , and any person whose interests are affected by such scheme, and who may be desirous to oppose the making of an order for the confirmation thereof under the above act, should enter an appearance at the office of the clerks of records and writs on or before the day of 18 , and appear by himself or counsel at the hearing of the said petition. And a copy of the scheme and petition will be furnished to any person requiring the same by the undersigned, or at the office of the company at , on payment of the regulated charge for the same.

A. and B., of [Agents for C. and D., of ],
Solicitors for the petitioners.

CHELMSFORD, C.
ROMILLY, M. R.
CAIRNS, L. J.
JOHN STUART, V.-C.
W. P. WOOD, V.-C.
RICHARD MALINS, V.-C.

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## 30 & 31 VICT. CAP. 136.

*An Act to enable the Courts of Referees to administer Oaths and award Costs in certain Cases, in the same manner as Committees on Private Bills.* [20th August, 1867.

Whereas it is expedient to enable the courts of referees on private bills in certain cases to administer oaths and to award costs in the same manner as committees on private bills : Be it enacted by (&c. &c.), as follows :

**1.** Any court of referees may examine witnesses upon oath upon such matters relating to any bill as they may under any standing order or other order of the House of Commons be empowered to inquire into, and for that purpose may administer an oath to any such witness. *Power to court of referees to administer oaths to witnesses.*

**2.** Any person examined as aforesaid who shall wilfully give false evidence shall be liable to the penalties of perjury. *Witnesses falsely deposing guilty of perjury.*

Power to award costs.
28 & 29 Vict. c. 27, ante, p. 249

**3.** Any court of referees on private bills, in cases in which, under any standing order or other order of the House, the referees may be empowered to inquire into the whole subject-matter of any such bill, and to report it, with or without amendments, to the House, may award costs in the same manner as select committees on private bills are empowered to award costs by an act passed in the 28th year of the reign of her Majesty Queen Victoria, intituled "An Act for awarding Costs in certain Cases of Private Bills," and all the provisions of the said act shall apply in the case of bills so referred to the referees.

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## 31 & 32 VICT. CAP. 33.

*An Act for the Collection and Publication of Cotton Statistics.*
[25th June, 1868.

Whereas it would be of great public advantage if statistical information respecting the quantity of cotton imported into the United Kingdom, and the quantity removed (either by sea or land) from and to, and held in stock at, the several ports, were periodically obtained and published by authority: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Short title

**1.** This act may be cited for all purposes as "The Cotton Statistics Act, 1868."

Interpretation of terms.

**2.** In this act—

The term "forwarder" shall mean and include every owner or lessee of any railway, canal, or inland navigation who carries or conveys cotton for toll or other consideration from or to any port in the United Kingdom.

Forwarders of cotton to make monthly returns to the Board of Trade.

**3.** Every forwarder shall on the fourth day of July, 1868, and on the fourth day of every subsequent month, make a return in writing to the Board of Trade, in such convenient form as the Board of Trade may order, showing the quantity of cotton forwarded or received by him or them from or to any port in the United Kingdom within the then last preceding month.

Publication of information.

**4.** The several returns made to the Board of Trade under this act shall be published in the same manner as other statistical information is published by that board.

Penalty.

**5.** If any such forwarder be summoned by the Board of Trade to comply with the requirements of this act, and fail to do so, he or they shall for every offence be liable on summary conviction to a penalty not exceeding twenty pounds.

Orders in council for execution of act, &c.

**6.** It shall be lawful for her Majesty in council from time to time to make by order in council such provisions as seem fit for the better execution of this act, and for otherwise procuring and publishing statistical information respecting the stock of and the importation of cotton into, and the exportation thereof from, and the transport and warehousing thereof within, the United Kingdom, and for the publication from time to time of such information. All such orders in council shall be published in the London, Edinburgh and Dublin Gazettes, and shall be laid before both Houses of Parliament.

# 31 & 32 VICT. CAP. 70.

*An Act to amend "The Railways (Ireland) Act, 1851," "The Railways (Ireland) Act, 1860," and "The Railways (Ireland) Act, 1864," as to the Trial of Traverses.* [31st July, 1868.

Whereas by the twenty-sixth section of "The Railways Act (Ireland), 1851," it is provided that where the party named in any certificate of the amount of the price or compensation ascertained by any award (or any party claiming under the party so named) should be dissatisfied with the amount in such certificate certified to be payable, and where any party claiming any interest in any monies paid into court should be dissatisfied with the amount of the price or compensation in respect of such monies, and where any party interested in land adjoining any railway should be dissatisfied with any award so far as respects any works for the accommodation of lands thereby awarded to be made and maintained by the company, or which such party might claim to have so made and maintained, it should be lawful for such party, at the assizes for the county in which the lands are situate, or, where the lands are situate in the county of Dublin or county of the city of Dublin, in the term next following the giving of such certificate, or the payment of such money into court, or (if the claim be only in respect of accommodation works) the making of the award, or where such assizes are holden or such term begins within less than twenty-one days after the giving of such certificate, or the payment of such money, or the making of the award, then at the next subsequent assizes, or in the next subsequent term (as the case might be), upon giving ten days' notice in writing previously to such assizes or term respectively to the secretary of the company of the amount or the accommodation works intended to be claimed, to have a traverse for damages entered in the crown book in respect of such claim, and thereupon such traverse should be tried in such manner, subject to such regulations and with such consequences, as in the said act in that behalf respectively mentioned: 14 & 15 Vict. c. 70, ante, p. 167.

And whereas by "The Railways Act (Ireland), 1860," the said first-mentioned act was amended and made perpetual: 23 & 24 Vict. c. 97, ante, p. 193.

And whereas by the first section of "The Railways Act (Ireland), 1864," it is provided that in all cases where the amount of money which the arbitrator should have awarded to be paid by the company to any person in respect of any estate or interest in lands should exceed the sum of five hundred pounds, it should be lawful for the company, if dissatisfied with such award, upon giving to such person within ten days next after the date of such award notice in writing of their intention to appeal therefrom, to have a traverse entered by the company in the crown book in respect of such award at the same time and in like manner in all respects as were provided with respect to traverses taken by persons dissatisfied with any award, and the like proceedings should be taken with respect to a traverse so taken by the company, and the verdict of the jury upon such traverse should have the like effect as in the case of a traverse taken by a person so dissatisfied: 27 & 28 Vict. c. 71, ante, p. 221.

And whereas such traverses as aforesaid must at present be tried in the county or county of a city where the lands are situate; and it is expedient to amend the law in that respect in the manner hereinafter mentioned:

Be it therefore enacted by (&c. &c.), as follows:

**1.** This act may be cited as "The Railways Traverse Act." Short title.

**2.** Whenever either party shall be entitled and shall intend to have any such traverse entered under the said recited acts, or any or either of them, or any act already or hereafter incorporating the said acts, or any of them, Provision for trial of traverse in county other than that in which lands are situate.

it shall be lawful for the other party to apply to the Court of Queen's Bench for an order directing such traverse to be entered and tried in some county other than the county or county of a city in which the lands are situate; and if upon such application it shall appear to said court that it will be more convenient or proper or more in furtherance of justice that such traverse should be tried elsewhere than in the county or county of a city where the lands are situate, the said court may order such traverse to be entered and tried in some other county or county of a city to be specified in such order, and thereupon such traverse shall be entered and tried in such other county or county of a city in such manner, and subject to the like regulations, and with the same consequences, and the verdict and proceedings shall have the like effect, as if the lands were situate in the county or county of a city in which such traverse shall under such order be so entered and tried.

When application for trial of traverse to be made.

**3**. Such application may be made either before or after the ten days' notice shall have been given, and before or after such traverse may have been entered for the county or county of a city where the lands are situate, and notwithstanding that such traverse may have been respited from an assizes or term previously to such application; and in case such order shall have been made after the entry of the traverse in the county or county of a city in which the lands are situate, no trial shall be had upon such entry. The said court may make such order as it may deem fit respecting the costs of such application, or any costs to be incurred by reason of such change of the place of trial or otherwise incidental to such order as aforesaid, and may, in making such order and in respect thereof, impose such terms upon either party as justice may require.

Construction of acts.

**4**. This act and the said recited acts shall be read together as one act, and this act shall be held to be incorporated with each of the said recited acts in any act already or hereafter incorporating the said recited acts, or any of them, and shall apply to traverses of awards made before the passing of this act in respect of which the right of traverse shall still subsist.

Jurisdiction out of term time.

**5**. The jurisdiction hereinbefore conferred upon the Court of Queen's Bench may out of term be exercised by any judge of that court, or any judge having for the time being jurisdiction to entertain and determine a motion to change the venue in any action depending in said court.

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## 31 & 32 VICT. CAP. 110.

*An Act to enable her Majesty's Postmaster General to acquire, work and maintain Electric Telegraphs.* [31st July, 1868.

Whereas the means of communication by electric telegraphs within the United Kingdom of Great Britain and Ireland are insufficient, and many important districts are without any such means of communication:

And whereas it would be attended with great advantage to the state, as well as to merchants and traders, and to the public generally, if a cheaper, more widely extended, and more expeditious system of telegraphy were established in the United Kingdom of Great Britain and Ireland, and to that end it is expedient that her Majesty's postmaster general be empowered to work telegraphs in connection with the administration of the post office:

May it therefore please your Majesty that it may be enacted; and be it nacted by (&c. &c.), as follows:

*Preliminary.*

Short title.

1. This act may be cited as "The Telegraph Act, 1868."

Provisions of 26 & 27 Vict. c. 112, incorporated.

2. The Telegraph Act, 1863, shall be incorporated with this act, except so ar as the same, or any part thereof, may be expressly varied, altered, or be nconsistent with this act; and the term "the company" in the Telegraph Act, 1863, shall, in addition to the meaning assigned to it in that act, nean the postmaster general.

Interpretation of terms.

3. Terms to which meanings are assigned by the Telegraph Act, 1863, ave in this Act the same respective meanings; and the word "land" in uch last-mentioned act shall, in addition to the meaning thereby assigned o it, include any term, estate, easement, interest, right or privilege in, ver, or affecting land, and shall include the works, tubes, wires, posts and ther property purchased or acquired by the postmaster general.

In this act—

The term "the undertaking" shall mean the whole or any part of the electric and other telegraphs, wires, posts, pipes, tubes and other works, instruments, materials, lands, tenements, hereditaments and buildings, parliamentary, prescriptive, and other rights, powers, privileges, patents and all other property whatsoever of any company, corporation or persons engaged in the United Kingdom of Great Britain and Ireland in transmitting messages for money or other consideration by means of electric or other telegraphs:

The term "any company" shall mean any company, corporation or persons now engaged in the United Kingdom of Great Britain and Ireland in transmitting, or authorized to transmit, messages for money or other consideration, by means of electric or other telegraphs, or mechanical agencies, and each and every of those companies.

Postmaster general to enter into contracts with certain railway companies.

9. Whereas the railway companies in the United Kingdom are for the nost part either themselves owners of telegraphs which are used for the onveyance of public messages, and which are also essential for the safe onduct of the traffic, on their respective undertakings, or they have conracts for various terms of years with telegraph companies, whose teleraphic apparatus is placed in the stations and along the railways and anals of the railway companies, by which contracts provision is made ith respect to the matters aforesaid: And whereas with certain railway ompanies agreements have been entered into by the postmaster general subject to the approbation of Parliament), which agreements are referred o in schedules to this act, and it is expedient that, with respect to certain ther railway companies, namely, the London and North Western, the Midland, the Lancashire and Yorkshire, the Great Northern, the Manhester, Sheffield and Lincolnshire, the North Staffordshire, the Great astern, the London, Brighton and South Coast, the Metropolitan, the Metropolitan District, the Metropolitan and St. John's Wood, the Highnd, the Sutherland, the Leven and East of Fife, the Glasgow and South Vestern, and the Great North of Scotland, the provisions hereinafter conained be made as to the undertakings belonging separately to the said ompanies or held by them jointly with any other company, or held by em respectively on lease: Be it therefore enacted as follows:—

(1.) The postmaster general shall give to each railway company three months' notice before he acquires the undertakings of any of the telegraph companies with which the railway company has agree-

ments; and on the expiration of such notice such agreements shall cease and determine:

(2.) On such acquisition as aforesaid all the posts, wires, instruments and other telegraphic apparatus belonging to the railway company, and also all posts, wires, instruments and other telegraphic apparatus belonging to the telegraph companies on the railway company's lines and canals which are necessary for establishing a complete system of telegraphy in connection with the working of trains and the traffic of the lines and canals, shall become the absolute property of the railway company, and shall be handed over to them by the postmaster general free of charge in efficient working order, so that the railway company may be in a position at once to take up and carry on their own telegraph work on their own system, and thereafter the said posts, wires, instruments and other telegraphic apparatus shall be maintained and worked by the railway company:

(3.) On such acquisition as aforesaid the postmaster general shall be entitled to use from telegraph stations not on the lines of railway all the wires belonging to the respective telegraph companies on the line, and employed exclusively in the transmission of the public telegraph business, which are erected on the poles to be handed over to the railway company under paragraph (2); and he, at his cost, shall also be entitled to call upon the railway company to erect and maintain additional wires on the said poles, provided they are sufficiently strong and high for the purpose; and also to erect new poles at places to be agreed upon with wires over any of the lines and canals of the company, but so that such new poles shall not interfere in any way with the convenience or working of the railway or canals of the company, or obstruct the working of the traffic thereon. The railway company shall maintain all the posts and wires used for public messages, the postmaster general paying for the same as may be agreed or settled by arbitration:

(4.) The postmaster general may require the railway company to affix wires to existing posts (if they can bear them), and the company may have a like power to affix wires to the posts belonging from time to time to the postmaster general, if sufficient for the purpose, and the cost of maintenance of such posts shall be divided between the postmaster general and the company, in proportion to the number of wires belonging to each on each post:

(5.) The railway company may shift the poles, wires and apparatus belonging to the postmaster general when necessary for the purposes of their works or traffic; but in all such cases the postmaster general shall pay to the railway company the actual costs incurred in shifting such poles and apparatus, but if such poles support the wires of the railway company and of the postmaster general, the cost of shifting the same shall be apportioned according to the number of wires belonging to or respectively used by the railway company and the postmaster general:

Compensation to railway company.

(6.) The postmaster general shall pay the railway company the following sums by way of compensation:—

*a.* Twenty-years' purchase of the amount of the net annual receipts (if any) of public telegraph messages received and forwarded by the railway company on their own account, reckoned on the basis of the receipts derived therefrom

over a continuous period of twelve months prior to the 30th June, 1868 :

*b*. Twenty times the amount of the estimated annual increase, calculated upon the average increase of the preceding three years of the said receipts from telegraphic messages, or where the business has been commenced within three years calculated upon the increase during such shorter period, such annual amount in case of difference to be settled by arbitration :

*c*. All rents and annual or other payments payable to the railway company by public telegraph companies during the still unexpired periods embraced in their respective agreements, and at the terms mentioned in said agreements respectively :

*d*. Such sums as shall be agreed upon, or in default of agreement as shall be settled by arbitration, in respect of the loss by the railway company of the privilege of granting other wayleaves and making future arrangements with telegraph or other companies, and in respect of granting a monopoly to the postmaster general for the conveyance of telegraphs over their railways as herein provided for :

*e*. Such sums as shall be agreed upon, or in default of agreement as shall be settled by arbitration, as the value of the railway company's reversionary interest (if any) in the telegraph receipts from public messages on the expiration of the agreements with the respective telegraph companies :

*f*. Such sums as shall be agreed upon, or in default of agreement as shall be settled by arbitration, for the loss occasioned by removal of any clerks now provided by the telegraph company, and for any extra cost which the railway company may incur in working their telegraph for railway purposes as a separate system :

*g*. The postmaster general shall transmit to their respective destinations all messages of the railway company in any way relating to the business of the company to and from any "foreign stations" in the United Kingdom free of charge :

*h*. On such acquisition as aforesaid the postmaster general shall, as herein provided, have a perpetual right of way for his poles and wires over the whole of the railway company's system, and in consideration thereof he shall pay to the railway company such sum per mile per wire over the whole of the said system, by way of yearly rent, as shall be determined by agreement between the parties, or failing agreement, as shall be fixed by arbitration :

The arbitrator, in determining the amounts to be paid to the railway company under this act, shall have regard to the agreements which subsist between the railway company and any telegraph company, and also to a compulsory sale being required from the railway company ; and in estimating the amount to be paid under any one part of this section shall have regard to the advantages to be obtained and the disadvantages to be sustained by the railway company under any other part of this section :

(7.) The railway company shall, if required by the postmaster general so to do, from time to time, at such times and under such regulations

as shall be agreed upon, receive messages for transmission by the public or private telegraph wires (but if the latter, the railway messages to have priority), and shall at the postmaster general's sole risk and expense transmit the same either to their place of destination, if upon the company's lines, or to some convenient post office as shall be arranged, and in respect of such receipt and transmission the company shall act as agents of the postmaster general, and shall receive in respect thereof such remuneration as shall be agreed upon, or in case of difference as shall be from time to time settled by arbitration. The postmaster general to provide the necessary instruments at the railway company's stations for the public wires, such instruments to be maintained by the railway company at the expense of the postmaster general:

Arrangements with coal-masters, &c.

(8.) The railway company may, notwithstanding anything in this act contained, and without payment to the postmaster general, from time to time make arrangements with coalmasters, ironmasters and traders generally upon the company's system for the erection and working of private telegraphs between coalpits, ironworks, factories, warehouses, and offices in connection with the stations of the company or over their line; but such telegraphs shall be used for the transaction of private business only, and no money payment shall be made or received in respect thereof except by way of annual rent or payment for wayleave and other accommodation:

(9.) Except as aforesaid, the railway company shall not transmit or permit the transmission of any telegraphic message through their wires:

(10.) All matters of difference between the postmaster general and railway companies arising under this act shall be settled by arbitration, in conformity with the enactments of "The Railway Companies Arbitration Act, 1859,"* with respect to the settlement of disputes by arbitration; and the provisions of that act with respect to arbitration shall for these purposes be incorporated with this act:

* Ante, p. 182.

(11.) Notwithstanding anything specified in this act or in any agreement by this act confirmed, the umpire to be appointed in any arbitration between the postmaster general and any railway company shall, in default of appointment by the arbitrators, be nominated by the chief justice of her Majesty's Court of Common Pleas at Westminster for the time being.

## SCHEDULE TO WHICH THE FOREGOING ACT REFERS.

1. An agreement between her Majesty's Postmaster General and the Great Western R. Co., dated 9th July, 1868.
2. An agreement between H. M. P. G. and the London and South Western R. Co., dated 10th July, 1868.
3. An agreement between H. M. P. G. and the London, Chatham and Dover R. Co., dated 9th July, 1868.
4. An agreement between H. M. P. G. and the South Eastern R. Co., dated 14th July, 1868.
5. An agreement between H. M. P. G. and the North Eastern R. Co., dated 8th July, 1868.
6. An agreement between H. M. P. G. and the Bristol and Exeter R. Co., dated 9th July, 1868.
7. An agreement between H. M. P. G. and the Submarine Telegraph Co. between Great Britain and the Continent of Europe and the Submarine Telegraph Co. between France and England (Société and Carmichael and Co.), dated 11th July, 1868.
8. An agreement between H. M. P. G. and Reuter's Telegram Co. (Limited), dated 14th July, 1868.

9. Agreement between H. M. P. G. and the Atlantic Telegraph Co. and Anglo-American Telegraph Co. (Limited), dated 8th July, 1868

10 An agreement between H. M. P. G and the North British R. Co., dated 16th July, 1868.

11. An agreement between H. M. P. G. and the Caledonian R. Co, dated 16th July, 1868.

12. Articles of agreement between H. M P. G. and the Universal Private Telegraph Co (Limited), dated 14th July, 1868.

13. Heads of agreement between H. M. P. G. and the London and Provincial Telegraph Co. (Limited), dated 16th July, 1868.

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## 31 & 32 VICT. CAP. 119.

*An Act to amend the Law relating to Railways.* [31st July, 1868.

Be it enacted by (&c. &c.), as follows :—

### *Preliminary.*

**1.** This act may be cited as "The Regulation of Railways Act, 1868." Short title.

**2.** In this act— Interpretation of terms.

The term "railway" means the whole or any portion of a railway or tramway, whether worked by steam or otherwise :

The term "company" means a company incorporated, either before or after the passing of this act, for the purpose of constructing, maintaining, or working a railway in the United Kingdom (either alone or in conjunction with any other purpose), and includes, except when otherwise expressed, any individual or individuals not incorporated who are owners or lessees of a railway in the United Kingdom, or parties to an agreement for working a railway in the United Kingdom :

The term "person" includes a body corporate.

### I.—*Accounts, Audit, &c.*

Uniform accounts, &c., to be kept.

**3.** Every incorporated company, seven days at least before each ordinary half-yearly meeting held after the 31st day of December, 1868, shall prepare and print, according to the forms contained in the first schedule to this act, a statement of accounts and balance sheet for the last preceding half-year, and the other statements and certificates required by the same schedule, and an estimate of the proposed expenditure out of capital for the next ensuing half-year, and such statement of accounts and balance sheet shall be the statement of accounts and balance sheet which are submitted to the auditors of the company. Every company which makes default in complying with this section shall be liable to a penalty not exceeding five pounds for every day during which such default continues. The Board of Trade, with the consent of a company, may alter the said forms as regards such company for the purpose of adapting them to the circumstances of such company, or of better carrying into effect the objects of this section.

Accounts, &c., to be signed, and printed copies distributed.

**4.** Every statement of accounts, balance sheet, and estimate of expenditure, prepared as required by this act, shall be signed by the chairman or deputy chairman of the directors and by the accountant or other officer in charge of the accounts of the company, and shall be preserved at the company's principal office. A printed copy thereof shall be forwarded to the

Board of Trade, and at all times after the date at which it is required to be printed be given, on application, to every person who holds any ordinary or preference share or stock in the company, or any mortgage, debenture, or debenture stock of the company; and every such person may at all reasonable times, without fee or charge, peruse the original in the possession of the company. Any company which acts in contravention of this section shall be liable for each offence to a penalty not exceeding 50*l.*

Penalty for falsifying accounts, &c.

**5**. If any statement, balance sheet, estimate, or report which is required by this act is false in any particular to the knowledge of any person who signs the same, such person shall be liable, on conviction thereof on indictment, to fine and imprisonment, or on summary conviction thereof to a penalty not exceeding 50*l.*

Examination of affairs by inspectors.

**6**. The Board of Trade may appoint one or more competent inspectors to examine into the affairs of an incorporated company and the condition of its undertaking, or any part thereof, and to report thereon upon any one of the applications following; (that is to say,)

1. Upon application made in pursuance of a resolution passed at a meeting of directors:
2. Upon application by the holders of not less than two-fifths part of the aggregate amount of the ordinary shares or stock of the company for the time being issued:
3. Upon application by the holders of not less than one-half of the aggregate amount of the mortgages, debentures and debenture stock (if any) of the company for the time being issued:
4. Upon application by the holders of not less than two-fifths of the aggregate amount of the guaranteed or preference shares, or stock of the company for the time being issued, provided that the preference capital issued amounts to not less than one-third of the whole share capital of the company.

Application to be supported by evidence.

**7**. The application shall be made in writing, signed by the applicants, and shall be supported by such evidence as the Board of Trade may require, for the purpose of showing that the applicants have good reason for requiring such examination to be made; the Board of Trade may also, before appointing any inspector or inspectors, require the applicants to give security for payment of the costs of the inquiry.

Inspection of company's books and property.

**8**. It shall be the duty of the directors, officers and agents of the company to produce, for the examination of the inspectors, all books and documents relating to the affairs of the company in their custody or power, and to afford to the inspectors all reasonable facilities for the inspection of the property and undertaking of the company. Any inspector may examine upon oath the officers and agents of the company in relation to its business, and may administer such oath accordingly. Any person who, when so examined on oath, makes any false statement, knowing the same to be false, shall be guilty of perjury.

If any director, officer or agent refuses to produce any book or document hereby directed to be produced, or to afford the facilities for inspection hereby required to be afforded, or if any officer or agent refuses to answer any question relating to the affairs of the company, he shall incur a penalty of 5*l.* for every day during which the refusal continues.

Result of examination, how dealt with.

**9**. Upon the conclusion of the examination the inspectors shall report their opinion to the Board of Trade and to the company, and the company shall print the same, and deliver a copy thereof to the Board of Trade, and, on application, to any person who holds any ordinary or preference share or stock, or any mortgage, debenture or debenture stock of the company. All expenses of and incidental to any such examination as aforesaid shall be defrayed by the persons upon whose application the inspectors were

appointed, unless the Board of Trade shall direct the same or any portion thereof to be paid by the company, which they are hereby authorized to do.

Power of company to appoint inspectors.

**10.** Any company may, by resolution at an extraordinary meeting, appoint inspectors for the purpose of examining into the affairs of the company and the condition of the company's undertaking. The inspectors so appointed shall have the same powers and perform the same duties as inspectors appointed by the Board of Trade, and shall make their report in such manner, and to such persons as the company in general meeting directs; and the directors, officers and agents of the company shall incur the same penalties in case of any refusal to produce any book or document by this act required to be produced to such inspectors, or to afford the facilities for inspection by this act required to be afforded, or to answer any question, as they would have incurred if such inspectors had been appointed by the Board of Trade.

Auditor not necessarily a shareholder.

* Ante, p. 51.

**11.** Whenever, after the passing of this act, section 102* of "The Companies Clauses Consolidation Act, 1845," is incorporated in a certificate or special act relating to a railway company, it shall be construed as if the words, "where no qualification shall be prescribed by the special act every auditor shall have at least one share in the undertaking," were omitted therefrom; and so much of every certificate and special act relating to a railway company, and in force at the passing of this act, as incorporates that portion of the said section, and so much of any special act relating to a railway company, and so in force, as contains a like provision, is hereby repealed.

Auditors of company, and appointment of auditor by Board of Trade.

**12.** With respect to the auditors of the company the following provisions shall have effect:

(1.) The Board of Trade may, upon application made in pursuance of a resolution passed at a meeting of the directors or at a general meeting of the company, appoint an auditor in addition to the auditors of such company, and it shall not be necessary for any such auditor to be a shareholder in the company:

(2.) The company shall pay to such auditor appointed by the Board of Trade such reasonable remuneration as the Board of Trade may prescribe:

(3.) The auditor so appointed shall have the same duties and powers as the auditors of the company, and shall report to the company:

(4.) Where, in consequence of such appointment of an auditor or otherwise, there are three or more auditors, the company may declare a dividend if the majority of such auditors certify in manner required by section thirty* of the Railway Companies Act, 1867, and the Railway Companies (Scotland) Act, 1867, respectively:

* Ante, p. 260.

(5.) Where there is a difference of opinion among such auditors, the auditor who so differs shall issue to the shareholders, at the cost of the company, such statement respecting the grounds on which he differs from his colleagues, and respecting the financial condition and prospects of the company, as he thinks material for the information of the shareholders.

Issue of preferred and deferred ordinary stock.

**13.** Any company which in the year immediately preceding has paid a dividend on their ordinary stock of not less than three pounds per centum per annum may, pursuant to the resolution of an extraordinary general meeting, divide their paid-up ordinary stock into two classes, to be and to be called the one preferred ordinary stock and the other deferred ordinary stock, and issue the same subject and according to the following provisions, and with the following consequences; (that is to say,)

(1.) Preferred and deferred ordinary stock shall be issued only in substitution for equal amounts of paid-up ordinary stock, and by way of division of portions of ordinary stock into two equal parts :

(2.) Such division may be made at any time, on the request in writing of the holder of paid-up ordinary stock, but not otherwise ; and such request may apply to the whole of the ordinary stock of such holder, or to any portion thereof divisible into twentieth parts :

(3.) Preferred ordinary stock and deferred ordinary stock shall not be issued except in sums of ten pounds or multiples of ten pounds :

(4.) The certificates for any ordinary stock divided into preferred and deferred ordinary stock shall before such division be delivered up to the company, and shall be cancelled by them, and certificates for preferred ordinary stock and deferred ordinary stock shall be issued gratis in exchange by the company :

(5.) If in any case there is any part of the ordinary stock held by a stockholder comprised in one certificate which he does not desire to be divided, or which is incapable of division, under the provisions of this act, the company shall issue to him gratis a certificate for that amount as ordinary stock :

(6.) As between preferred ordinary stock and deferred ordinary stock, preferred ordinary stock shall bear a fixed maximum dividend at the rate of six per centum per annum :

(7.) In respect of dividend to the extent of the maximum aforesaid, preferred ordinary stock shall at the time of its creation, and at all times afterwards, have priority over deferred ordinary stock created or to be created, and shall rank pari passu with the undivided ordinary stock and the ordinary shares of the company created or to be created ; and in respect of dividend, preferred ordinary stock shall at all times and to all intents rank after all preference and guaranteed stock and shares of the company created or to be created :

(8.) In each year after all holders of preferred ordinary stock for the time being issued have received in full the maximum dividend aforesaid, all holders of deferred ordinary stock for the time being issued shall, in respect of all dividend exceeding that maximum paid by the company in that year on ordinary stock and shares, rank pari passu with the holders of undivided ordinary stock and of ordinary shares of the company for the time being issued :

(9.) If, nevertheless, in any year ending on the 31st day of December there are not profits available for payment to all the holders of preferred ordinary stock of the maximum dividend aforesaid, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the company :

(10.) Preferred ordinary stock and deferred ordinary stock from time to time shall confer such right of voting at meetings of the company, and shall confer and have all such other rights, qualifications, privileges, liabilities and incidents, as from time to time attach and are incident to undivided ordinary stock of the company :

(11.) The terms and conditions on which any preferred ordinary stock or deferred ordinary stock is issued shall be stated on the certificate thereof :

(12.) Preferred ordinary stock and deferred ordinary stock shall respectively be held on the same trusts, and subject to the same charges and liabilities, as those on and subject to which the ordinary stock in substitution for which the same are issued was held imme-

diately before the substitution, and so as to give effect to any testamentary or other disposition of or affecting such ordinary stock.

II.—*Obligations and Liability of Companies as Carriers.*

Liability of company during sea transit.

**14.** Where a company by through booking contracts to carry any animals, luggage, or goods from place to place partly by railway and partly by sea, or partly by canal and partly by sea, a condition exempting the company from liability for any loss or damage which may arise during the carriage of such animals, luggage, or goods by sea from the act of God, the king's enemies, fire, accidents from machinery, boilers, and steam, and all and every other dangers and accidents of the seas, rivers, and navigation, of whatever nature and kind soever, shall, if published in a conspicuous manner in the office where such through booking is effected, and if printed in a legible manner on the receipt or freight note which the company gives for such animals, luggage, or goods, be valid as part of the contract between the consignor of such animals, luggage, or goods and the company in the same manner as if the company had signed and delivered to the consignor a bill of lading containing such condition. For the purposes of this section the word "company" includes the owners, lessees, or managers of any canal or other inland navigation.

Fares to be posted in stations.

**15.** On and after the 1st day of January, 1869, every company shall cause to be exhibited in a conspicuous place in the booking office of each station on their line a list or lists painted, printed, or written in legible characters, containing the fares of passengers by the trains included in the time tables of the company from that station to every place for which passenger tickets are there issued.

Provision for securing equality of treatment where railway company works steam vessels (*b*).

**16.** Where a company is authorized to build, or buy, or hire, and to use, maintain, and work, or to enter into arrangements for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, and to take tolls in respect of such steam vessels, then and in every such case tolls shall be at all times charged to all persons equally and after the same rate in respect of passengers conveyed in a like vessel passing between the same places under like circumstances; and no reduction or advance in the tolls shall be made in favour of or against any person using the steam vessels in consequence of his having travelled or being about to travel on the whole or any part of the company's railway, or not having travelled or not being about to travel on any part thereof, or in favour of or against any person using the railway in consequence of his having used or being about to use, or his not having used or not being about to use, the steam vessels; and where an aggregate sum is charged by the company for conveyance of a passenger by a steam vessel and on the railway, the ticket shall have the amount of toll charged for conveyance by the steam vessel distinguished from the amount charged for conveyance on the railway.

The provisions of the Railway and Canal Traffic Act, 1854,* so far as the same are applicable, shall extend to the steam vessels and to the traffic carried on thereby.

* Page 175.

Company bound to furnish particulars of charges for goods.

**17.** Where any charge shall have been made by a company in respect of the conveyance of goods over their railway, on application in writing within one week after payment of the said charge made to the secretary of the company by the person by whom or on whose account the same has been paid, the company shall within fourteen days render an account to the

(*b*) See also 26 & 27 Vict. c. 92, ss. 31, 32, ante, pp. 208, 209.

person so applying for the same, distinguishing how much of the said charge is for the conveyance of the said goods on the railway, including therein tolls for the use of the railway, for the use of carriages, and for locomotive power, and how much of such charge is for loading and unloading, covering, collection, delivery, and for other expenses, but without particularizing the several items of which the last-mentioned portion of the charge may consist.

Charge when two railways worked by one company.

18. Where two railways are worked by one company, then in the calculation of tolls and charges for any distances in respect of traffic (whether passengers, animals, goods, carriages, or vehicles) conveyed on both railways, the distances traversed shall be reckoned continuously on such railways as if they were one railway.

Proceedings in case of non-consumption of smoke.

19. Where proceedings are taken against a company using a locomotive steam engine on a railway on account of the same not consuming its own smoke, then if it appears to the justices before whom the complaint is heard that the engine is constructed on the principle of consuming its own smoke, but that it failed to consume its own smoke, as far as practicable, at the time charged in the complaint through the default of the company, or of any servant in the employment of the company, such company shall be deemed guilty of an offence under the Railways Clauses Consolidation Act, 1845, section 114.*

* Page 125.

Smoking compartments for all classes.

20. All railway companies, except the Metropolitan Railway Company, shall, from and after the 1st day of October next, in every passenger train where there are more carriages than one of each class, provide smoking compartments for each class of passengers, unless exempted by the Board of Trade.

Prize fights, penalty for providing trains for.

21. Any railway company that shall knowingly let for hire or otherwise provide any special train for the purpose of conveying parties to or to be present at any prize fight, or who shall stop any ordinary train to convenience or accommodate any parties attending a prize fight at any place not an ordinary station on their line, shall be liable to a penalty, to be recovered in a summary way before two justices of the county in which such prize fight shall be held or shall be attempted to be held, of such sum not exceeding 500*l.*, and not less than 200*l.*, as such justices shall determine, one-half of such penalty to be paid to the party at whose suit the summons shall be issued, and the other half to be paid to the treasurer of the county in which such prize fight shall be held or shall be attempted to be held in aid of the county rate; and service of the summons under which the penalty is sought to be enforced on the secretary of the company at his office ten days before the day of hearing shall be sufficient to give the justices before whom the case shall come jurisdiction to hear and determine the case.

## III.—*Provisions for Safety of Passengers.*

Communication between passengers and the company's servants.

22. After the 1st day of April, 1869, every company shall provide, and maintain in good working order, in every train worked by it which carries passengers, and travels more than twenty miles without stopping, such efficient means of communication between the passengers and the servants of the company in charge of the train as the Board of Trade may approve. If any company makes default in complying with this section it shall be liable to a penalty not exceeding 10*l.* for each case of default. Any passenger who makes use of the said means of communication without reasonable and sufficient cause shall be liable for each offence to a penalty not exceeding 5*l.*

**23.** If any person shall be or pass upon any railway, except for the purpose of crossing the same at any authorized crossing, after having received warning (*c*) by the company which works such railway, or by any of their agents or servants, not to go or pass thereon, every person so offending shall forfeit and pay any sum not exceeding 40s. for every such offence.

Penalty for trespasses on railways

**24.** If any tree standing near to a railway shall be in danger of falling on the railway so as to obstruct the traffic, it shall be lawful for any two justices on the complaint of the company which works such railway to cause such tree to be removed or otherwise dealt with as such justices may order, and the justices making such order may award compensation to be paid by the company making such complaint to the owner of the tree so ordered to be removed or otherwise dealt with as such justices shall think proper, and the amount of such compensation shall be recoverable in like manner as compensation recoverable before justices under "The Railways Clauses Consolidation Act, 1845."†

Trees dangerous to railways may be removed.

† Page 97.

## IV.—*Compensation for Accidents.*

**25.** Where a person has been injured or killed by an accident on a railway, the Board of Trade, upon application in writing made jointly by the company from whom compensation is claimed and the person if he is injured, or his representatives if he is killed, may, if they think fit, appoint an arbitrator, who shall determine the compensation (if any) to be paid by the company.

Arbitration of damages.

**26.** Whenever any person injured by an accident on a railway claims compensation on account of the injury, any judge of the court in which proceedings to recover such compensation are taken, or any person who by the consent of the parties or otherwise has power to fix the amount of compensation, may order that the person injured be examined by some duly qualified medical practitioner named in the order, and not being a witness on either side, and may make such order with respect to the costs of such examination as he may think fit.

Examination by medical man.

## V.—*Light Railways.*

**27.** The Board of Trade may by licence authorize a company applying for it to construct and work or to work as a light railway the whole or any part of a railway which the company has power to construct or work.

Order for construction and working of railway as a light railway.

Before granting the licence the Board of Trade shall cause due notice of the application to be given, and shall consider all objections and representations received by them, and shall make such inquiry as they think necessary.

**28.** A light railway shall be constructed and worked subject to such conditions and regulations as the Board of Trade may from time to time impose or make: Provided, that (1) the regulations respecting the weight of locomotive engines, carriages and vehicles to be used on such railway shall not authorize a greater weight than eight tons to be brought upon the rails by any one pair of wheels: (2) the regulations respecting the speed of trains shall not authorize a rate of speed exceeding at any time twenty-five miles an hour.

Conditions and regulations for light railway.

If the company or any person fails to comply with or acts in contravention of such conditions and regulations, or directs any one so to fail or act, such company and person shall respectively be liable to a penalty for each offence not exceeding 20*l*., and to a like penalty for every day during which the

(c) See 34 & 35 Vict. c. 78, s. 14, post.

offence continues; and every such person on conviction on indictment for any offence relating to the weight of engines, carriages or vehicles, or the speed of trains, shall be also liable to imprisonment, with or without hard labour, for any term not exceeding two years.

Publication of regulations.

**29.** The conditions and regulations of the Board of Trade relating to light railways shall be published and kept published by the company in manner directed with respect to bye-laws by section 110 of "The Railways Clauses Consolidation Act, 1845,"* and the company shall be liable to a penalty not exceeding 5*l.* for every day during which such conditions and regulations are not so published.

* Page 124.

VI.—*Arbitration by Board of Trade.*

Arbitrator appointed by Board of Trade.

**30.** Whenever the Board of Trade are required to make any award or to decide any difference in any case in which a company is one of the parties, they may appoint an arbitrator to act for them, and his award or decision shall be deemed to be the award or decision of the Board of Trade.

If the arbitrator dies, or, in the judgment of the Board of Trade, becomes incapable or unfit, the Board of Trade may appoint another arbitrator.

Remuneration of arbitrator.

**31.** The Board of Trade may fix the remuneration of any arbitrator or umpire appointed by them in pursuance of this or any other act in any case where a company is one of the parties, and may, if they think fit, frame a scale of remuneration for arbitrators or umpires so appointed by them, and no arbitrator or umpire so appointed by them shall be entitled to any larger remuneration than the amount fixed by the Board of Trade.

Costs, &c., of arbitrations.

**32.** The provisions of sections 18 to 29, both inclusive, of "The Railway Companies Arbitration Act, 1859,"† shall, so far as is consistent with the tenor thereof, apply to an arbitrator appointed by the Board of Trade, and to his arbitration and award, notwithstanding that one of the parties between whom he is appointed to arbitrate may not be a railway company; and in construing those sections for the purpose of this act the word "companies" shall be construed to mean the parties to the arbitration.

† Page 184.

[33. *Costs, taxation of by masters of the Court of Queen's Bench:* Repealed, 32 & 33 Vict. c. 18, s. 2, post.]

VII.—*Miscellaneous.*

Printed copies of shareholders' address book.

**34.** Every incorporated company shall print correct copies of the shareholders' address book of the company corrected up to the 1st day of December in every year, and affix an asterisk against the names of those qualified to act as directors.

After the expiration of one fortnight from the aforesaid date the company shall, on application, supply such printed copies at a price not exceeding 5*s.* for each copy to every person who holds any ordinary or preference shares or stock in the company, or any mortgage debenture or debenture stock of the company.

Any company which acts in contravention of this section shall be liable for each offence to a penalty not exceeding 20*l.*

[35. *Holding of meeting of shareholders preliminary to application for act or certificate:* Repealed, 32 Vict. c. 6, s. 1, post.]

Special trains exclusively for post office.

**36.** Whenever in pursuance of any notice under the act of the session of the first and second years of the reign of her present Majesty, chapter ninety-eight, "to provide for the Conveyance of Mails by Railways,"* or otherwise, the mails or post letter bags are conveyed and forwarded by a company on their railway by a special train, the postmaster general may by

* Ante, p. 4.

the same or any other notice in writing require that the whole of such special train shall be appropriated to the service of the post office exclusively of all other traffic except such as he may sanction, and the remuneration to be paid for such service shall be settled as prescribed by the 6th section of that act.

Service of requisitions, &c., by postmaster general

**37**. All requisitions, notices and documents which relate to a company, if purporting to be signed by the postmaster general or some secretary or assistant secretary to the post office, or by some officer appointed for the purpose by the postmaster general, shall, until the contrary is proved, be deemed to have been so signed, and to have been given or made by the postmaster general. . . . .

Extension of scope of Railway Companies Powers Act, 1864.

**38**. "The Railway Companies Powers Act, 1864," shall take effect and apply in the following cases in the same manner as if they were specified in section three of that act; (that is to say,)

Where a company desire to make new provisions or to alter any of the provisions of their special act, or of "The Companies Clauses Consolidation Act, 1845,"* so far as it is incorporated therewith, with respect to all or any of the matters following; namely,

(a.) The general meetings of the company, and the exercise of the right of voting by the shareholders:

(b.) The appointment, number and rotation of directors:

(c.) The powers of directors:

(d.) The proceedings and liabilities of directors:

(e.) The appointment and duties of auditors.

* Ante, p 33.

Service of requisitions, &c., by Board of Trade.

**39**. All requisitions, orders, regulations, appointments, certificates, licences, notices and documents which relate to a company, if purporting to be signed by some secretary or assistant secretary of or by some officer appointed for the purpose by the Board of Trade, shall, until the contrary is proved, be deemed to have been so signed, and to have been given or made by the Board of Trade. They may be served by the Board of Trade on any company in the manner in which notices may be served under the Companies Clauses Consolidation Act, 1845;* and all notices, returns and other documents required to be made, delivered or sent by a company to the Board of Trade shall be left at the office of, or transmitted through the post addressed to, the Board of Trade.

* Ante, p. 33.

Recovery, &c., of penalties.

**40**. Every penalty imposed by this act shall be recovered and applied in the same manner as penalties imposed by the Railways Clauses Consolidation Act, 1845 (*d*), and the Railways Clauses Consolidation (Scotland) Act, 1845, (as the case may require), are for the time being recoverable and applicable.

Compensation cases, trial of, before judge, on application of either party.

**41**. Whenever, in the case of any lands purchased or taken otherwise than by agreement for the purposes of any public railway, any question of compensation in respect thereof, or any question of cómpensation in respect of lands injuriously affected by the execution of the works of any public railway, is, under the provisions of "The Lands Clauses Consolidation Act, 1845," to be settled by the verdict of a jury empannelled and summoned as in that act mentioned, the company or the party entitled to the compensation may, at any time before the issuing by the company to the sheriff (*e*) as by that act directed, apply to a judge of any of the superior courts of common law at Westminster, who shall, if he think fit, make an order for trial of the question in one of the superior courts upon such terms and in such manner as to him shall seem fit; and the question between the parties shall be stated in an issue to be settled in case of

(*d*) 8 Vict. c. 20, s. 140 et seq., ante, p. 129.

(*e*) Sic. Semble, the words "of their warrant" are omitted by mistake.

difference by the judge, or as he shall direct, and such issue may be entered for trial and tried accordingly in the same manner as any issue joined in an ordinary action at such place as the judge shall direct; and the proceedings in respect of such issue shall be under and subject to the control and jurisdiction of the court as in ordinary actions therein, but so nevertheless that the jury shall, where the issue relates to the value of lands to be purchased, and also to compensation claimed for injury done or to be done to lands held therewith, deliver their verdict separately in manner provided by the forty-ninth* section of "The Lands Clauses Consolidation Act, 1845."

* Ante, p 70.

Company may obtain judge's order instead of issuing warrant.

**42.** Whenever a company is called upon or liable under the provisions of "The Lands Clauses Consolidation Act, 1845," to issue their warrant to the sheriff in the case of any disputed compensation, and the company shall obtain a judge's order as in the last preceding section mentioned, the obtaining of such an order and notice thereof to the opposite party shall be a satisfaction of the company's duty in respect of the issue of the warrant.

Effect of verdict of jury and judgment of court.

**43.** The verdict of the jury and judgment of the court upon any issue authorized by this act shall, as regards costs and every other matter incident to or consequent thereon, have the same operation and be entitled to the same effect as if that verdict and judgment had been the verdict of a jury and judgment of a sheriff upon an inquiry conducted upon a warrant to the sheriff issued by the company under "The Lands Clauses Consolidation Act, 1845."

Interpretation.

**44.** In so far as any expression used in any of the three preceding sections of this act has any special meaning assigned to it by "The Lands Clauses Consolidation Act, 1845,"† each such expression shall in this act have the meaning so assigned to it.

† Ante, p. 6.

Fees to masters for determining questions of disputed compensation.

**45.** Wherever under the provisions of "The Lands Clauses Consolidation Act, 1845," or of any act incorporating, altering or amending the same, the costs of any proceedings for determining a question of disputed compensation are settled by one of the masters of the Court of Queen's Bench in England or Ireland, it shall be lawful for such masters to receive and take in respect of each folio in length of every bill of costs so settled a fee of 1*s.* and no more; and such fee shall be taken in money and not in stamps, and may be retained by the said masters for their own use and benefit.

# SCHEDULES.

## FIRST SCHEDULE.

FORMS OF ACCOUNT referred to in Sect. 3 of this Act.

——— RAILWAY. HALF YEAR ENDING ———, 18 .

[No. 1.]

STATEMENT OF CAPITAL AUTHORIZED, AND CREATED BY THE COMPANY.

| Acts of Parliament, or Certificates of the Board of Trade. | Capital authorized | | | Capital created or sanctioned. | | | Balance. | | |
|---|---|---|---|---|---|---|---|---|---|
| | Stock and Shares. | Loans | Total. | Stock and Shares. | Loans | Total. | Stock and Shares. | Loans | Total. |
| | £ | £ | £ | £ | £ | £ | £ | £ | £ |
| 1. 2. 3. 4. 5. &c. *[Except where Capital Powers are comprised in a Consolidation Act, each Act or Certificate authorizing Capital to be stated here separately in order of Date.]* | | | | | | | | | |
| Total........... | | | | | | | | | |

[No. 2.]

STATEMENT OF STOCK AND SHARE CAPITAL CREATED, SHOWING THE PROPORTION RECEIVED.

| Description. | Amount created. | Amount received. | Calls in arrear. | Amount uncalled. | Amount unissued. |
|---|---|---|---|---|---|
| | £ | £ | £ | £ | £ |
| *[State each Class of Stock or Shares in order of Date of Creation, showing the Premium or Discount, if any, at which it was issued, the Preferential or fixed Dividends, if any, to which it is entitled, and any other Conditions attached to it.]* | | | | | |
| Total......... | | | | | |

[No. 3.]

CAPITAL RAISED BY LOANS AND DEBENTURE STOCK.

| — | Raised by Loans. | | | | | | | | | Raised by Issue of Debenture Stocks | | | Total raised by Loans and by Debenture Stocks. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | At per cent. | At per cent. | At per cent | At per cent. | At per cent | At per cent | At per cent. | At per cent | Total loans | At per cent | At per cent. | Total Debenture Stocks. | |
| | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ s. d. |
| Existing at<br>Ditto at | | | | | | | | | | | | | |
| Increase . . .<br>Decrease . | | | | | | | | | | | | | |

| | |
|---|---|
| Total amount authorized to be raised by loans and by debenture stocks in respect of capital created, as per statement No. 1 | |
| Total amount raised by loans and by debenture stock as above . | |
| Balance being available borrowing powers at 18 | |

[No. 4.]

*Dr.* RECEIPTS AND EXPENDITURE ON CAPITAL ACCOUNT. *Cr.*

| | Amount Expended to | Amount Expended during Half Year. | Total. | | Amount Received to | Amount Received during Half Year. | Total. |
|---|---|---|---|---|---|---|---|
| | £ s. d. | £ s. d. | £ s. d. | | £ s. d. | £ s. d. | £ s. d. |
| To expenditure— | | | | By receipts— | | | |
| On lines open for traffic (No. 5)......... | | | | Shares and stock, per account No. 2 ............... | | | |
| On lines in course of construction (No. 5) | | | | Loans, per account No. 3 ........... | | | |
| Working Stock (No. 5) | | | | Debenture stock, per account No. 3 ............. | | | |
| Subscriptions to other railways (No. 5)... .. | | | | Sundries (in detail) .............. | | | |
| Docks, steamboats, and other special items (No. 5) ......... | | | | | | | |
| ,, Balance .............. | | | | | | | |

[No. 5.]

DETAILS OF CAPITAL EXPENDITURE FOR HALF YEAR ENDING 18 .

| | | |
|---|---|---|
| Lines open for traffic—<br>Particulars—<br>Lines in course of construction—<br>Particulars— [*Showing, under separate heads, amount paid for land (purchase and compensation), construction of way and stations, including rails, chairs, sleepers, &c., engineering and surveying, law charges, parliamentary expenses, interest, commission, &c.*] | | |
| Working stock—<br>Particulars—*showing each description of stock* ...................... .. | | |
| Subscriptions to other railways—<br>Particulars—*stating lines* ................................................... | | |
| Docks, steamboats, and other special items—<br>Particulars ..................................... ......................... | | |
| Total expenditure for half year, as per account No. 4 ........ | | |

[No. 6.]

RETURN OF WORKING STOCK.

| | Locomotive | | Coaching. | | | | | | | | Merchandise and Mineral | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Engines. | Tenders. | First Class. | Second Class. | Third Class. | | | | | | Goods Waggons | Goods Waggons covered | Coke Trucks | Cattle Trucks. | Timber Trucks. | | | | |
| Stock on the 18<br>Ditto on the 18 | | | | | | | | | | | | | | | | | | | |
| Increase during the half year .... .... ..... .. .. ..<br>Decrease ditto ditto | | | | | | | | | | | | | | | | | | | |

[No. 7.]

ESTIMATE OF FURTHER EXPENDITURE ON CAPITAL ACCOUNT.

| | Further Expenditure. | | |
|---|---|---|---|
| | During the Half Year ending . | In subsequent Half Years. | Total. |
| Lines open for traffic ......................................... (*Particulars, showing principal items.*) | | | |
| Lines in course of construction........ ...................... (*Details of each line.*) | | | |
| Working stock.......... ....................................... (*Particulars.*) | | | |
| Subscription to other railways .............................. (*Specifying lines.*) | | | |
| Docks, steamboats, and other special items ...... ...... (*Particulars.*) | | | |
| Works not yet commenced and in abeyance (*in detail*) | | | |
| Other items (*in detail*) ...................................... | | | |
| Total estimated further expenditure of capital... | | | |

[No. 8.]

CAPITAL POWERS AND OTHER ASSETS AVAILABLE TO MEET FURTHER EXPENDITURE, as per No. 7.

| | | |
|---|---|---|
| Share and loan capital authorized or created but not yet received.................................................... | | |
| Any other assets (*in detail*) .................................. | | |
| Total............ | | |

[No. 9.]

Dr. REVENUE ACCOUNT. Cr.

| Half Year ended | EXPENDITURE. | £ s. d. | Half Year ended | RECEIPTS. | £ s. d. | £ s. d. |
|---|---|---|---|---|---|---|
| | To Maintenance of Way, Works, and Stations ... .. — See Abstract A. | | | By Passengers .. .. | | |
| | ,, Locomotive Power .. do. B. | | | ,, Parcels, Horses, Carriages, &c. | | |
| | ,, Carriage and Waggon Repairs .. — do. C. | | | ,, Mails .. ... | | |
| | ,, Traffic Expenses .. do. D. | | | ,, Merchandise .. | | |
| | ,, General Charges ... do. E. | | | ,, Live Stock ... | | |
| | ,, Law Charges ............ | | | ,, Minerals ...... | | |
| | ,, Parliamentary Expenses ..... | | | ,, Special and Miscellaneous Receipts— *Such as Navigations, Steamboats, Rents, Transfer Fees, &c.* | | |
| | ,, Compensation (Accidents and Losses) .. ............ .. | | | *Details.* | | |
| | ,, Rates and Taxes .. ......... | | | | | |
| | ,, Government Duty ........... | | | | | |
| | ,, Special and Miscellaneous Expenses (if any) ....... ....... | | | | | |
| | ,, Balance carried to Net Revenue Account ...... ...... ........ | | | | | |
| | £ | | | | £ | |

[No. 10.]

Dr. NET REVENUE ACCOUNT Cr.

| Half Year ended | | £ s. d. | Half Year ended | | £ s. d. |
|---|---|---|---|---|---|
| | To Interest on Mortgage and Debenture Loans .. ...... .... | | | By Balance brought from last Half Year's Account ........ .. .... | |
| | ,, Interest on Debenture Stock... | | | ,, Do. Revenue Account, No. 9........... .. ..... | |
| | ,, Interest on Calls in Advance... | | | ,, Dividends on Shares in other Companies .... | |
| | ,, Interest on Temporary Loans.. | | | ,, Bankers and General Interest Account (if in Credit) ................. | |
| | ,, Interest on Lloyd's Bonds...... | | | ,, Special and Miscellaneous Receipts (if any) (*Detail to be given.*) | |
| | ,, Interest on Banking Balances | | | | |
| | ,, General Interest Account (if in Debit) ............... ....... | | | | |
| | ,, Rents of Leased Lines, Guarantees, &c. ....... ............... Details ..................... | | | | |
| | ,, Special and Miscellaneous Payments (if any) ................. *Details.* | | | | |
| | ,, Balance, being Payment available for Dividend ........... [*See No.* 13.] | | | | |
| | £ | | | £ | |

[No. 11.]

PROPOSED APPROPRIATION OF BALANCE AVAILABLE FOR DIVIDEND.

| Half Year ended | | | |
|---|---|---|---|
| | Balance available for Dividend, as per Account No. 10.............. | | £ |
| | Preference Stock / Ditto / Ditto — to be stated in order of Creation, with Rate of Dividend. | £ | |
| | Ordinary Stock (being at the Rate of per cent.)... | | |
| | Balance to next Half Year ............. | | £ |

[No. 12.]

ABSTRACTS.

**A. Maintenance of Way, Works, &c**

| Half Year ended | | £ s. d. | £ s. d. |
|---|---|---|---|
| | Salaries, Office Expenses, and General Superintendence .. | | |
| | Maintenance and Renewal of Permanent Way . . . ..... | | |
| | Wages . ..... | | |
| | Materials ... .... | | |
| | Repairs of Roads, Bridges, Signals, and Works . . . | | |
| | Repairs of Stations and Buildings .... | | |
| | Special Expenditure (if any) .. .... . | | |
| | Miles maintained | | |
| | Double ..... ..... | | |
| | Single .. ..... | | |
| | Total | | |
| | Total... | | |

**B. Locomotive Power.**

| Half Year ended | | £ s. d. | £ s. d. |
|---|---|---|---|
| | Salaries, Office Expenses, and General Superintendence ... | | |
| | Running Expenses :— | | |
| | Wages connected with the working of Locomotive Engines .... ....... | | |
| | Coal and Coke ...... | | |
| | Water................. | | |
| | Oil, Tallow, and other Stores ...... | | |
| | Repairs and Renewals :— | | |
| | Wages.............. | | |
| | Materials ......... | | |
| | Special Expenditure... | | |
| | £ | | |

**C. Repairs and Renewals of Carriages and Waggons.**

| Half Year ended | | £ s d. | £ s. d. |
|---|---|---|---|
| | Carriages :— | | |
| | Salaries, Office Expenses and General Superintendence ........ . | | |
| | Wages ..... ... ..... | | |
| | Materials .......... | | |
| | Waggons :— | | |
| | Salaries, Office Expenses, and General Superintendence ..... . .... .. | | |
| | Wages .. ... . . . .. | | |
| | Materials .... ...... | | |
| | Total... | | |

**D. Traffic Expenses.**

| Half Year ended | | £ s. d. |
|---|---|---|
| | Salaries and Wages, &c. ... | |
| | Fuel, Lighting, Water, and General Stores .......... . | |
| | Clothing .............. ... ..... | |
| | Printing, Stationery, and Tickets.......... . ........ | |
| | Horses, Harness, Vans, Provender, &c. ......... ...... . | |
| | Waggon Covers, Ropes, &c. | |
| | Joint Station Expenses...... | |
| | Miscellaneous Expenses . . | |
| | Special Expenditure (if any) | |

**E. General Charges.**

| Half Year ended | | £ s. d. |
|---|---|---|
| | Directors........................ | |
| | Auditors and Public Accountants (if any)......... | |
| | Salaries of Secretary, General Manager, Accountant, and Clerks ................ | |
| | Office Expenses do. do..... | |
| | Advertising . .................. | |
| | Fire Insurance .............. | |
| | Electric Telegraph Expenses | |
| | Railway Clearing House Expenses.................... | |
| | Special Expenditure (if any) | |

[No. 13.]

GENERAL BALANCE SHEET.

| Dr. | £ s. d. | Cr. | £ s. d. |
|---|---|---|---|
| To Capital Account, Balance at Credit thereof, as per Account No 4 | | By Cash at Bankers—Current Account. ... | |
| ,, Net Revenue Account, Balance at Credit thereof, as per Account No. 10 ... | | ,, Cash on Deposit at Interest. ... | |
| ,, Unpaid Dividends and Interest.. | | ,, Cash invested in Consols and Government Securities .. | |
| ,, Guaranteed Dividends and Interest payable or accruing and provided for .. ... | | ,, Cash invested in Shares of other Railway Companies not charged as Capital Expenditure .. | |
| ,, Temporary Loans . .. | | ,, General Stores—Stock of Materials on hand ... | |
| ,, Lloyd's Bonds and other Obligations not included in Loan Capital Statement, No. 3 .. | | ,, Traffic Accounts due to the Company ... | |
| ,, Balance due to Bankers ... | | ,, Amounts due by other Companies ... | |
| ,, Debts due to other Companies... | | ,, Do. do. Clearing House ... | |
| ,, Amount due to Clearing House. | | ,, Do. do. Post Office | |
| ,, Sundry Outstanding Accounts... | | ,, Sundry Outstanding Accounts... | |
| ,, Fire Insurance Fund on Stations, Works, and Buildings ... | | ,, Suspense Accounts (if any) *to be enumerated* ... | |
| ,, Insurance Fund on Steamboats.. | | ,, Special Items... | |
| ,, Special Items... | | | |
| £ | | £ | |

[No. 14.]

MILEAGE STATEMENT.

| Half Year ended . | | Miles authorized. | Miles constructed. | Miles constructing or to be constructed. | Miles worked by engines. |
|---|---|---|---|---|---|
| | Lines owned by company .. | | | | |
| | Do. partly owned ... | | | | |
| | Do. leased or rented ... | | | | |
| | Total... | | | | |
| | Do. worked... | | | | |
| | Foreign lines worked over ... | | | | |
| | Total... | | | | |

[No. 15.]

STATEMENT OF TRAIN MILEAGE.

| Half Year ended . | | |
|---|---|---|
| | Passenger trains ... | |
| | Goods and mineral trains ... | |
| | Total... | |

(Signed) ____________ *Chairman or Deputy Chairman of Company.*

____________ *Secretary or Accountant of Company.*

CERTIFICATE RESPECTING THE PERMANENT WAY, ETC.

I hereby certify that the whole of the company's permanent way, stations, buildings, canals, and other works have during the past half year been maintained in good working condition and repair.

Date ____________ 18 . *Engineer.*

CERTIFICATE RESPECTING THE ROLLING STOCK.

I hereby certify that the whole of the company's plant, engines, tenders, carriages, waggons, machinery, and tools, also the marine engines of the steam vessels, have during the past half year been maintained in good working order and repair.

*Chief Engineer, or*

Date ____________ 18 . *Locomotive Superintendent.*

AUDITOR'S CERTIFICATE,

*As prescribed by Act 30 & 31 Victoria, cap. 37, to follow.*

## 32 VICT. CAP. 6.

*An Act to repeal so much of "The Regulation of Railways Act, 1868," as relates to the Approval by Meetings of Incorporated Railway Companies of Bills and Certificates for conferring further Powers on those Companies.* [19th April, 1869.

Be it enacted, &c.:

**1.** Section thirty-five (*f*) of "The Regulation of Railways Act, 1868," (which relates to meetings of incorporated railway companies and the approval by such meetings of bills and certificates for conferring additional powers on those companies,) is hereby repealed so far as relates to any bill introduced into either house of parliament or application for a certificate made after the 1st of February, 1869. Repeal of s. 35 of Regulation of Railways Act, 1868.

**2.** This act may be cited as "The Railway Companies Meetings Act, 1869." Short title.

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## 32 & 33 VICT. CAP. 18.

*An Act to amend the Lands Clauses Consolidation Act.* [24th June, 1869.

Whereas it is expedient that the provisions contained in "The Lands Clauses Consolidation Act, 1845," should be amended:

Be it therefore enacted and declared by, &c. as follows:

**1.** Where in England, under "The Lands Clauses Consolidation Act, 1845," or any act incorporating the same, any question of disputed compensation is determined by arbitration, the costs of and incidental to the arbitration and award shall, if either party so requires, be taxed and settled as between the parties by any one of the taxing masters of the superior courts of law; and such fees may be taken in respect of the taxation as may be fixed in pursuance of the enactments relating to the fees to be demanded and taken in the offices of such masters (*g*), and all those enactments including the enactments relating to the taking of fees by means of stamps, shall extend to the fees in respect of the said taxation. Costs of arbitrations, where either party so requires, to be settled by a master of superior courts.

**2.** Section 33 of "The Regulation of Railways Act, 1868," is hereby repealed, and any proceedings commenced in pursuance of that section may be continued under this act as if they had been commenced under it. Repeal of 31 & 32 Vict. c. 119, s. 33.

**3.** Where any lands by the special act authorized to be taken are situate within the city and liberty of Westminster, then, with respect to those lands, in every case in which any question of disputed compensation is required by "The Lands Clauses Consolidation Act, 1845," or any act amending the same, to be determined by the verdict of a jury, the high bailiff of the city and liberty of Westminster, or his deputy, shall be deemed to be substituted for the sheriff throughout such of the enactments of "The Lands Clauses Consolidation Act, 1845," and any act amending the same as relate to the reference to a jury. Provision respecting lands in Westminster.

(*f*) This section provided that before the second reading of a bill, or before the application for a certificate, a meeting similar to that prescribed in the "Wharncliffe Order" (L. S. O. 62; C. S. O. 73) should be convened.

(*g*) See now Judicature Act, 1875, s. 26.

Short title. Construction of acts.

4. This act may be cited as "The Lands Clauses Consolidation Act, 1869," and shall be construed as one with "The Lands Clauses Consolidation Act, 1845," and "The Lands Clauses Consolidation Acts Amendment Act, 1860," and these acts and this act may be cited together as "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869."

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## 32 & 33 VICT. CAP. 114.

*An Act to amend the Law relating to the Abandonment of Railways and the Dissolution of Railway Companies.*

[11th August, 1869.

Whereas by the provisions of "The Abandonment of Railways Act, 1850," as revived and amended by "The Railway Companies (Scotland) Act, 1867," and "The Railway Companies Act, 1867," a railway company may if their whole railway is authorized to be abandoned be wound up under "The Companies Act, 1862;" and doubts (*h*) have arisen whether such company can be so wound up on the petition of a creditor or of any person except a shareholder, and it is expedient to remove such doubts and otherwise to amend the said acts:

Be it enacted, &c.:

Short title.

1. This act may be cited as "The Abandonment of Railways Act, 1869."

Interpretation.

2. In this act "the court" means the High Court of Chancery in England, the Court of Chancery in Ireland, or the Court of Session in Scotland, according as the railway was authorized to be made in England, Ireland or Scotland respectively.

Act to be read as one with Acts of 1850 and 1867.

3. This act shall be construed as one, so far as it extends to Scotland, with "The Abandonment of Railways Act, 1850" (*i*), as amended by "The Railway Companies (Scotland) Act, 1867" (*k*), and so far as it extends to England or Ireland with "The Abandonment of Railways Act, 1850," as amended by "The Railway Companies Act, 1867" (*l*), and those acts are in this act referred to as the principal acts.

Petition for winding-up of railway company may be presented under the Companies Acts, 1862 and 1867.

4. Where a warrant has been granted under the principal acts for the abandonment of the whole railway of any railway company a petition for winding-up the affairs of such company may be presented under "The Companies Acts, 1862 and 1867," by the company, or by any person who under the last-mentioned acts (*m*) is authorized to present a petition for winding-up a company, or by any person upon whose application the Board

(*h*) *Re North Kent Railway Co. Extension*, L. R., 8 Eq. 351.

(*i*) 13 & 14 Vict. c. 83, p. 155, ante.

(*k*) 30 & 31 Vict. c. 126.

(*l*) 30 & 31 Vict. c. 127, ss. 32, 34, p. 267, ante.

(*m*) By sect. 82 of "The Companies Act, 1862," the petition may be presented by the company, or by any one or more creditors or contributories of the company, or by all or any of the above parties, together or separately; and by sect. 40 of "The Companies Act, 1867," "no contributory shall be capable of presenting a petition unless the members of the company are reduced in number to less than seven, or unless the shares in respect of which he is a contributory, or some of them either were originally allotted to him or have been held by him, and registered in his name, for a period of at least six months during the eighteen months previously to the commencement of the winding-up, or have devolved upon him through the death of a former holder." By a proviso to the same section, a contributory ranks as such in respect of shares coming to him by marriage.

of Trade may proceed in pursuance of section thirty-two of "The Railway Companies (Scotland) Act, 1867," and "The Railway Companies Act, 1867," as the case may be, and for that purpose the railway company whose railway is so authorized to be abandoned shall be deemed to be an unregistered company which may be wound up under "The Companies Acts, 1862 and 1867," and the provisions of the principal acts which remain in force relating to winding-up shall be construed as if "The Companies Acts, 1862 and 1867," and the winding-up provided by this section, were therein referred to.

Application of deposit, &c.

**5.** If the warrant for the abandonment was made on condition that the money deposited as security for the completion of the railway, or the stocks, funds or securities in which the same is invested, or the money secured by any bond conditioned for the completion of the railway, or for payment of money in default thereof, should be applied as part of the assets of the company, the court may, if it think fit, direct that such money, stocks, funds and securities shall not be applicable for the payment of any debt or part of a debt which, regard being had to what is fair and reasonable as between all the parties interested under all the circumstances of the case, appears to the court to have been incurred on account of the promotion of the company.

Any person who provided such money or any part thereof, or who entered into such bond, may, subject to any directions or rules of the court, attend all proceedings under this section and other proceedings, in the winding-up, and apply to the court to act under this section.

Transfer of deposit and assignment of bond.

**6.** Where the warrant for abandonment is made on condition that the money deposited as security for the completion of the railway, or the stocks, funds or securities in which the same is invested, or the money secured by any bond conditioned for the completion of the railway or for payment of money in default thereof, shall be applied as part of the assets of the company, the following provisions shall have effect:

(1.) The court in which the company is being wound up may order such money, stocks, funds or securities, or so much thereof as is required to be applied as assets of the company, to be paid, transferred or delivered out to the official liquidator, and unless the court is satisfied that the same or any part thereof are not required to be applied as assets, shall not order the same or any part thereof to be paid, transferred or delivered out to any other person:

(2.) The commissioners of her Majesty's treasury, upon the application of the official liquidator, made with the sanction of the court, may, if they think fit, assign the bond to the official liquidator, and upon such assignment the bond shall be deemed to have been entered into with the official liquidator in his official name, and with his successors in that office, and may, subject to the sanction of the court, be enforced accordingly:

(3.) Any bond so assigned may, after a sufficient sum has been paid thereunder as assets of the company, be cancelled by the court.

Saving for right to residue of deposit.

**7.** Nothing in the principal acts or in this act shall affect any right to that part of the money deposited as security for the completion of the railway, or of the stocks, funds or securities on which the same is invested, or of the money secured by any bond conditioned for the completion of the railway, which is not applied in payment of the debts and liabilities of the company, or required for that purpose.

Application for abandonment by judgment creditor.

**8.** Where a company, no part of the railway of which is open for traffic, has been required by any judgment or order of any court to pay a sum of money to any person or body corporate, and has made default in such

payment, the Board of Trade may proceed under the principal acts, upon the application of such person or body, in the same manner as if such person or body were mentioned in that behalf in the said section.

Notices under s. 17 of Act of 1850.

**9.** The notice given in pursuance of sect. 17 of "The Abandonment of Railways Act, 1850," may, where there is no secretary of the company, or no office of the company, require claims or demands to be sent to such person or to such place as the Board of Trade direct.

Repeal of winding-up sections of Act of 1850.

**10.** Sect. 29 of "The Abandonment of Railways Act, 1850," from "and they shall accordingly" to the end of that section, and sections 30, 31, 32 and 33 of "The Abandonment of Railways Act, 1850," and so much of sect. 31 of "The Railway Companies (Scotland) Act, 1867," and of "The Railway Companies Act, 1867," respectively, as amends the said sections, are hereby repealed, without prejudice to anything already done thereunder; and all proceedings commenced in pursuance of those sections shall be continued under the provisions of this act.

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## 33 & 34 VICT. CAP. 19.

*An Act to amend "The Railway Companies Powers Act,* 1864," *and "The Railway Construction Facilities Act,* 1864."

[20th June, 1870.

Whereas it is expedient to amend "The Railway Companies Powers Act, 1864,"* and also "The Railways Construction Facilities Act, 1864:"† Be it therefore enacted as follows:

* Page 225, ante.

† Page 232, ante.

Short title.

**1.** This act may be cited for all purposes as "The Railways (Powers and Construction) Acts, 1864, Amendment Act, 1870."

Repeal of parts of Acts of 1864.

**2.** From and after the passing of this act, there shall be repealed sections seven and eight of "The Railway Companies Powers Act, 1864," and Part I. of the schedule annexed to the said act; and sections nine and ten of "The Railways Construction Facilities Act, 1864," and Part I. of the schedule annexed to the said act.

Notice of opposition to grant of certificate under Acts of 1864.

**3.** Any railway or canal company, which for the purposes of this act shall include the owners, lessees, or proprietors of any canal or inland navigation, may, in case it desires to be heard by counsel, agents, and witnesses against any application for a certificate under "The Railway Companies Powers Act, 1864," or for a certificate authorizing any proposed undertaking under "The Railways Construction Facilities Act, 1864" (each of which acts is in this act respectively referred to as the Act of Application), lodge at the office of the Board of Trade, within the time prescribed by the schedule to this act annexed, a notice in writing to that effect (in this act referred to as a notice of opposition), in the forms set forth in the same schedule, with such variations as circumstances require.

Provisional certificate by Board of Trade.

Where a notice of opposition has been lodged the Board of Trade may nevertheless, if they think fit, proceed upon the application, but they shall in such case settle a provisional certificate in accordance with the provisions of this act.

Every provisional certificate under this act shall be settled in like manner, shall certify to the like effect, and contain the like provisions in every respect as if the same were a draft certificate settled by the Board of Trade, under the authority of the Act of Application in a like case, but where no notice of opposition was lodged.

When any such provisional certificate is confirmed in manner by this act provided, the same shall have all the force and operation of a certificate duly made and issued by the Board of Trade, under the authority of the Act of Application, but previously to such confirmation it shall not be of any validity whatsoever.

When any provisional certificate is settled under this act notice thereof shall be given by the promoters in like manner as if the same were a draft certificate under the Act of Application according to the provisions of such act in that behalf.

Costs.

The costs of and connected with the preparation and making of each provisional certificate shall be paid by the promoters, and the Board of Trade may require the promoters to give security for such costs before they proceed with the provisional certificate.

Confirmation of provisional certificate by act of Parliament.

**4.** On proof to the satisfaction of the Board of Trade that notice of such certificate was duly given in manner aforesaid, the Board of Trade shall, as soon as they conveniently can after the expiration of seven days after such proof, procure a bill to be introduced into either House of Parliament for an act to confirm the provisional certificate, which shall be set out at length in the schedule to the bill.

If while any such bill is pending in either House of Parliament a petition is presented against any provisional certificate comprised therein, the bill, so far as it relates to the certificate petitioned against, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of a bill for a special act.

The provisions of the act of this present session of Parliament, intituled "An Act to empower Committees on Bills confirming Provisional Orders to award Costs and to examine Witnesses on Oath" (*n*), shall extend and apply to any select committee to whom any bill to confirm a provisional certificate under this act has been referred, in like manner and subject to the same conditions in every respect as if such provisional certificate were a provisional order.

The act of Parliament confirming any provisional certificate shall be deemed a public general act.

Repeal of sect. 33 of Facilities Act.

**5.** From and after the passing of this act, section thirty-three of the said "Railways Construction Facilities Act, 1864" (*o*), relating to the gauge of railways, shall be and the same is hereby repealed, and every railway made under the authority of a certificate under the said act or this act shall be made on such gauge as shall be prescribed by such certificate.

Application of certain sections of Gauge Act, 1846.

Sections four, six, seven and eight (*p*) of 9 & 10 Vict. c. 57, intituled "An Act for regulating the Gauge of Railways," shall apply to any railway made under the authority of any such certificate as aforesaid, and to the gauge thereby prescribed.

For the purposes of such application the provisions of the certificate relating to gauge shall be deemed to be included in the provisions of the said act, 9 & 10 Vict. c. 57.

Amendment of Part IV. of the schedule to Facilities Act.

**6.** All enactments amending, perpetuating, or otherwise affecting the enactments described in Part IV. of the schedule to the said "Railways Construction Facilities Act, 1864," and which are now in force, or which may hereafter become law, shall, in like manner and subject to the like variations and provisions as the enactments described in the said schedule, extend and apply as the case may require, to the railway, and to the company or persons empowered by the certificate under the said act or this

(*n*) 33 & 34 Vict. c. 1, repealed and replaced by 34 Vict. c. 3, which see, post.

(*o*) 27 & 28 Vict. c. 121, p. 232, ante. The 33rd section prescribed a gauge.

(*p*) Page 141, ante. By these sections alteration of gauge is forbidden under heavy penalties.

act to make the railway, and shall in all respects operate in relation thereto respectively as if they were expressly repeated and re-enacted in the said act, save where the same are expressly varied or excepted by such certificate.

THE SCHEDULE REFERRED TO IN THE FOREGOING ACT.

*Notice of Opposition.*

In the matter of
"The Railways Companies Powers Act, 1864," and "The Railways (Powers and Construction) Acts, 1864, Amendment Act, 1870,"
and
The application of the Railway Company for a certificate, the draft whereof is intituled [*set out title*].

We, the Railway [*or* Canal] Company hereby declare and give notice that we desire to be heard by counsel, agents, and witnesses against the granting to the above-named railway company of the powers sought to be obtained by them by the above-mentioned application.
Dated this day of 18 .
Witness, *A. B.* (L.S.)

*Or,*

*Notice of Opposition.*

In the matter of
"The Railways Construction Facilities Act, 1864," and "The Railways (Powers and Construction) Acts, 1864, Amendment Act, 1870,"
and
The (proposed) Railway.

We, the Railway [*or* Canal] Company hereby declare and give notice that we desire to be heard by counsel, agents, and witnesses against the above-mentioned proposed undertaking.
Dated this day of 18 .
Witness, *A. B.* (L.S.)

*Time for lodging Notice of Opposition.*

Notice of opposition by a railway or canal company is to be lodged at the office of the Board of Trade, not later than the 1st day of August, or the 1st day of January, next succeeding the date of the advertisement of application, according as the same is published in the month of June or in the month of November.

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## 34 & 35 VICT. CAP. 27.

*An Act to remove Doubts as to the Power of Trustees to invest Trust Funds in Debenture Stocks.* [29th June, 1871.

Whereas by divers acts of parliament, and more particularly by "The Companies Act, 1863," and the acts amending the same, companies authorized to issue debenture stock are empowered to raise, by means of such stock, all monies which they may for the time being be authorized to raise on mortgage or bond :

And whereas doubts are entertained whether it is lawful for trustees who may be authorized to invest trust funds in the mortgages or bonds of companies to invest such funds in debenture stock :

Be it enacted by, &c. as follows :

1. Where a power has before the passing of this act been or shall at any time hereafter be given to trustees to invest trust funds in the mortgages or bonds of a railway company or of any other description of company, such power shall, unless the contrary is expressed in the instrument creating the power, be deemed to include a power to invest such funds in the debenture stock of a railway company or such other company as aforesaid, and an investment of trust funds in debenture stock may be made accordingly. Power to trustees to invest in debenture stock.

2. The expression "trustees" shall include executors and administrators and any other persons holding funds in a fiduciary capacity. Definition of "trustees."

3. This act may be cited for all purposes as "The Debenture Stock Act, 1871." Short title.

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## 34 & 35 VICT. CAP. 78.

*An Act to amend the Law respecting the Inspection and Regulation of Railways.* [14th August, 1871.

Be it enacted by, &c. as follows:

### *Preliminary.*

1. This act so far as is consistent with the tenor thereof shall be construed as one with the acts mentioned in schedule two to this act and with "The Regulation of Railways Act, 1868,"* and those acts and this act may be cited together as "The Regulation of Railways Acts, 1840 to 1871;" and this act and each of the acts mentioned in schedule two to this act may be cited as the Regulation of Railways Act of the year in which it was passed. Construction of act and short title.

* Page 277, ante.

2. In this act— Interpretation of terms.

The term "railway" means the whole or any portion of a railway or tramway, whether worked by steam or otherwise, which has been authorized by any special act of parliament or by any certificate under act of parliament (*q*): "Railway."

The term "company" means a company incorporated either before or after the passing of this act for the purpose of constructing, maintaining, or working a railway in the United Kingdom (either alone or in conjunction with any other purpose), and includes, except when otherwise expressed, any individual or individuals not incorporated who are owners or lessees of a railway in the United Kingdom or parties to an agreement for working a railway in the United Kingdom: "Company."

The term "person" includes a body corporate:

The term "court of summary jurisdiction" means any justices of the peace, metropolitan police magistrate, stipendiary magistrate, sheriff, sheriff substitute, or other magistrate, or officer, by whatever name called, who is capable of exercising jurisdiction in summary proceedings for the recovery of penalties. "Court of summary jurisdiction."

### *Inspection of Railways.*

3. The Board of Trade may from time to time appoint any person to be inspector for the purpose of inspecting any railway and of making any Board of Trade may appoint inspectors of railways.

(*q*) See "Railway Construction Facilities Act, 1864," p. 234, ante.

inquiry with respect to any railway or into the cause of any railway accident which the Board of Trade are authorized to make or direct, and of enabling the Board of Trade to carry the provisions of any general act relating to railways into execution, or for any of such purposes: Provided that no person so appointed shall exercise any powers of interference in the affairs of any company.

Powers of inspectors of railways.

**4.** Every inspector under this act shall for the purpose of any inspection or inquiry which he is directed by the Board of Trade to make or conduct have the following powers; (that is to say,)

Entry.

(1.) He may enter and inspect any railway and all the stations, works, buildings, offices, stock, plant, and machinery belonging thereto:

Examination.

(2.) He may by summons under his hand require the attendance of any person who is engaged in the management, service, or employment of a company as defined by this act, and whom he thinks fit to call before him and examine for the said purpose, and may require answers or returns to such inquiries for the said purpose as he thinks fit to make from such person or company:

Production of books.

(3.) He may require and enforce the production of all books, papers and documents of a company which he considers important for the said purpose.

Additional line or junction not to be opened without notice to Board of Trade.

**5.** The provisions of "The Regulation of Railways Act, 1842" (*r*), and the acts amending the same, with respect to the opening of any railway, shall extend to the opening of any additional line of railway, deviation line, station, junction, or crossing on the level which forms a portion of or is directly connected with a railway on which passengers are conveyed, and has been constructed subsequently to the inspection of such railway on behalf of the Board of Trade previous to the original opening of such railway: Provided always, that the Board of Trade may, with respect to any of the works in this section mentioned, from time to time upon the application of any railway company dispense with any notice which, under the provisions of the said acts, is required to be given to the Board of Trade previous to opening any railway.

*Accidents.*

Notice of accidents to be sent to Board of Trade.

**6.** Where in or about any railway or any of the works or buildings connected with such railway, or any building or place, whether open or enclosed, occupied by the company working such railway, any of the following accidents takes place in the course of working any railway; (that is to say,)

(1.) Any accident attended with loss of life or personal injury to any person whomsoever;

(2.) Any collision where one of the trains is a passenger train;

(3.) Any passenger train or any part of a passenger train accidentally leaving the rails;

(4.) Any accident of a kind not comprised in the foregoing descriptions, but which is of such a kind as to have caused or to be likely to cause loss of life or personal injury, and which may be specified in that behalf by any order to be made from time to time by the Board of Trade,

the company working such railway, and also, if the accident happen to a train belonging to any other company, such last-mentioned company shall send notice of such accident and of the loss of life or personal injury (if any) occasioned thereby to the Board of Trade.

(*r*) 5 & 6 Vict. c. 55, ss. 4, 6, p. 15, ante.

Such notice shall be in such form and shall contain such particulars as the Board of Trade may from time to time direct, and shall be sent by the earliest practicable post after the accident takes place.

Notice by telegraph.

The Board of Trade may from time to time, by order, direct that notice of any class of accidents shall be sent to them by telegraph, and may revoke any such order. Notice of every such order shall be sent to every railway company, and while it is in force notice of every accident of the class to which the order relates shall be sent to the Board of Trade by telegraph immediately after the accident takes place.

Penalty.

Every company who fail to comply with the provisions of this section shall be liable for each offence to a penalty not exceeding twenty pounds.

Inquiry into accidents, and formal investigation in serious cases.

7. The Board of Trade may direct an inquiry to be made by an inspector into the cause of any accident, of which notice is for the time being required by or in pursuance of this act to be sent to the Board of Trade; and where it appears to the Board of Trade, either before or after the commencement of any such inquiry, that a more formal investigation of the accident, and of the causes thereof, and of the circumstances attending the same, is expedient, the Board of Trade may, by order, direct such investigation to be held, and with respect to such investigation the following provisions shall have effect.

Legal assistant.

(1.) The Board of Trade may, by the same or any subsequent order, appoint any person or persons possessing legal or special knowledge to assist an inspector in holding the same, or may direct the county court judge, stipendiary magistrate, metropolitan police magistrate, or other person or persons named in the same or any subsequent order, to hold the same with the assistance of an inspector or any other assessor or assessors named in the order:

Inquiry to be in open court.

(2.) The persons holding any such formal investigation (hereinafter referred to as the court) shall hold the same in open court in such manner and under such conditions as they may think most effectual for ascertaining the causes and circumstances of the accident, and enabling them to make the report in this section mentioned:

Powers of court.

(3.) The court shall have for the purpose of such investigation all the powers of a court of summary jurisdiction when acting as a court in the exercise of its ordinary jurisdiction, and all the powers of an inspector under this act, and in addition the following powers; namely,

(*a.*) They may enter and inspect any place or building the entry or inspection whereof appears to them requisite for the said purpose:

(*b.*) They may by summons under their hands require the attendance of all such persons as they think fit to call before them and examine for the said purpose, and may for such purpose require answers or returns to such inquiries as they think fit to make:

(*c.*) They may require and enforce the production of all books, papers and documents which they consider important for the said purpose:

(*d.*) They may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination.

Expenses of non-official witnesses.

(*e.*) Every person so summoned not being a person engaged in the management, service or employment of a company, or otherwise connected with a company, shall be allowed such expenses as

would be allowed to a witness attending on subpœna before a court of record; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of one of the superior courts, who, on request under the hands of the members of the court, shall ascertain and certify the proper amount of such expenses:

Report to Board of Trade.

(4.) The inspector making an inquiry into any accident and the court holding an investigation of any accident shall make a report to the Board of Trade stating the causes of the accident and all the circumstances attending the same, and any observations thereon or on the evidence or on any matters arising out of the investigation which they think right to make to the Board of Trade, and the Board of Trade shall cause every such report to be made public in such manner as they think expedient.

Appointment of assessor to coroner.

**8.** Where any coroner in England holds or is about to hold an inquest on the death of any person occasioned by an accident, of which notice for the time being is required by or in pursuance of this act to be sent to the Board of Trade, and makes a written request to the Board of Trade in this behalf, the Board of Trade may appoint an inspector or some person possessing legal or special knowledge to assist in holding such inquest, and such appointee shall act as the assessor of the coroner, and shall make the like report to the Board of Trade, and the report shall be made public in like manner as in the case of a formal investigation of an accident under this act.

*Railway Statistics* (*s*).

Companies to furnish statements of capital, traffic, and working expenditure.

**9.** Every company shall annually prepare returns of their capital, traffic and working expenditure for the last preceding financial year of the company in accordance with the forms contained in schedule one to this act, and a copy of each return, signed by the chairman or deputy chairman of the directors of the company, and by the officer of the company responsible for the correctness of each return, or any part thereof, shall be forwarded by the company to the Board of Trade at the times following; (that is to say,)

If the company is an incorporated company, within fourteen days after the first ordinary half-yearly meeting of the company held in each year:

If the company is not an incorporated company, or fails to hold half-yearly meetings, not later than the thirty-first day of March in each year.

Penalty for not making return.

Any company which fails to forward the said return in accordance with the provisions of this section shall be liable to a penalty not exceeding five pounds for every day during which such default continues.

The Board of Trade, with the consent of a company, may alter the said forms as regards such company for the purpose of adapting them to the circumstances of such company or of better carrying into effect the objects of this section.

Penalty for false return.

**10.** If any return which is required by this act is false in any particular to the knowledge of any person who signs the same, such person shall be liable on conviction thereof on indictment to fine and imprisonment or on summary conviction thereof to a penalty not exceeding fifty pounds.

*Miscellaneous.*

Disobedience to or obstruction of inspector or court.

**11.** If any person, without reasonable excuse (proof whereof shall lie on him), does any of the following things; namely,

(*s*) See s. 32 of the Railway and Canal Traffic Act, 1888, p. 356, post.

(1.) Having been summoned, and having had the expenses (if any) to which he is entitled tendered to him, fails to attend as a witness before any inspector under this act, or before a court holding an investigation under this act, or fails when required by the inspector or such court in pursuance of this act so to do, to make any answer, or to give any return, or to produce any document, or to make or sign any declaration; or

(2.) Prevents or impedes the inspector or such court in the execution of his or their duty,

he shall for every such offence incur a penalty not exceeding ten pounds, and in the case of a refusal to make any return or produce any document, not exceeding ten pounds during every day that such failure continues; and where the offence consists of preventing or impeding as aforesaid, the inspector, or any member of such court, or any person called by him to his assistance, may seize and detain the offender until he can be conveniently taken before a court of summary jurisdiction, to be dealt with according to law. Penalty.

**12.** Where a railway company under a contract for carrying persons, animals or goods by sea procure the same to be carried in a vessel not belonging to the railway company, the railway company shall be answerable in damages in respect of loss of life or personal injury, or in respect of loss of or damage to animals or goods, in like manner and to the same amount as the railway company would be answerable if the vessel had belonged to the railway company: Provided that such loss of life or personal injury, or loss or damage to animals or goods, happens to the person, animals, or goods (as the case may be) during the carriage of the same in such vessel, the proof to the contrary to lie upon the railway company. Limitation of liability of companies on sea voyages in certain cases.

**13.** *The following acts—* *Punishment of juvenile offenders for casting stones, &c., on railway carriages, &c.*

10 & 11 *Vict. c.* 82, "*for the more speedy trial and punishment of juvenile offenders;*" *and*

13 & 14 *Vict. c.* 37, "*for the further extension of summary jurisdiction in cases of larceny,*"

*shall have effect as if there had been mentioned therein, in addition to the offence of larceny, the several offences following:*

*The offences mentioned in sects.* 32 *and* 33 *of* 24 & 25 *Vict. c.* 100, "*to consolidate and amend the Statute Law of England and Ireland relating to offences against the person;*" *and*

*The offences mentioned in sect.* 35 *of the act of the same session (chapter* 97), "*to consolidate and amend the Statute Law of England and Ireland relating to malicious injuries to property.*"

*Nothing in this section shall affect any offence committed before the passing of this act* (*t*).

**14.** Sect. 23 of "The Regulation of Railways Act, 1868,"* shall have effect as if the words "after having once received warning" were substituted therein for the words "after having received warning." Penalty for trespasses on railways.

* Page 293, ante.

Nothing in this section shall affect anything done before the passing of this act.

**15.** Every penalty imposed by this act shall be recovered and applied in the same manner as penalties imposed by "The Railways Clauses Consolidation Act, 1845," † and "The Railways Clauses Consolidation (Scotland) Act, 1845" (as the case may require), are for the time being recoverable and applicable. Recovery, &c., of penalties.

† Page 129, ante.

(*t*) Repealed and replaced as to England by the Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49. See Ch. XII., sect. 15, ante.

Application of act to Scotland.

**16.** In the application of this act to Scotland—

(1.) The term "attending on subpœna before a court of record" means attending on citation the Court of Justiciary.

(2.) The Queen's and Lord Treasurer's remembrancer shall perform the duties of a master of one of the superior courts under this act.

(3.) The term "stipendiary magistrate" means a sheriff or sheriff substitute.

Repeal of acts.

**17.** The several acts set forth in schedule two to this act shall be repealed to the extent to which such acts are therein expressed to be repealed.

Provided that any inspector appointed under any enactment hereby repealed shall be deemed to have been appointed under this act, and the repeal enacted in this act shall not affect—

(1.) Anything duly done or suffered before the passing of this act under any enactment hereby repealed:

(2.) Any right or privilege acquired or any liability incurred before the passing of this act under any enactment hereby repealed:

(3.) Any penalty, forfeiture, or other punishment incurred before the passing of this act in respect of any offence against any enactment hereby repealed:

(4.) The institution or prosecution of any investigation or legal proceeding or any other remedy for ascertaining, enforcing, or recovering any such liability, penalty, forfeiture, or punishment as aforesaid.

Commencement of act.

**18.** This act shall not come into operation until the 1st day of November, 1871.

## SCHEDULES.

[For Schedule One, containing the Forms of Returns under s. 9, see p. 382, post.]

### SCHEDULE TWO.

| Session and Chapter. | Title of Act. | Extent of Repeal. |
|---|---|---|
| 3 & 4 Vict. c. 97 ... | An act for regulating railways ........... | The whole act except so much of sections 3 and 4 as relates to a table of tolls, rates, and charges, sections 7 to 9 both inclusive, sections 13, 14, 16 to 19 both inclusive, and 21. |
| 5 & 6 Vict. c. 55 ... | An act for the better regulation of railways and for the conveyance of troops. | Sections 7 and 8. |
| 7 & 8 Vict. c. 85 ... | An act to attach certain conditions to the construction of future railways authorized or to be authorized by any act of the present or succeeding sessions of parliament; and for other purposes in relation to railways. | Sections 15 and 16. |

## 34 & 35 VICT. CAP. 86.

*An Act for the better Regulation of the Regular and Auxiliary Land Forces of the Crown; and for other purposes relating thereto* (*a*). [17th August, 1871.

Power of government on occasion of emergency to take possession of railroads.

**16.** When her Majesty by order in council declares that an emergency arisen in which it is expedient for the public service that her Majesty's nment should have control over the railroads in the United Kingdom, y of them, the secretary of state may by warrant under his hand ower any person or persons named in such warrant to take possession in name or on behalf of her Majesty of any railroad in the United igdom, and of the plant belonging thereto or of any part thereof, and y take possession of any plant without taking possession of the railroad self, and to use the same for her Majesty's service at such times and in ich manner as the secretary of state may direct; and the directors, officers nd servants of any such railroad shall obey the directions of the secretary of state as to the user of such railroad or plant as aforesaid for her Majesty's service.

Any warrant granted by the said secretary of state in pursuance of this section shall remain in force for one week only, but may be renewed from week to week so long as in the opinion of the said secretary of state the mergency continues.

Compensation.

There shall be paid to any person or body of persons whose railroad or plant may be taken possession of in pursuance of this section, out of monies to be provided by parliament, such full compensation for any loss or injury they may have sustained by the exercise of the powers of the secretary of state under this section as may be agreed upon between the said secretary of state and the said person or body of persons, or in case of difference may be settled by arbitration in manner provided by "The Lands Clauses Consolidation Act, 1845."

Where any railroad or plant is taken possession of in the name or on behalf of her Majesty in pursuance of this section, all contracts and engagements between the person or body of persons whose railroad is so taken possession of and the directors, officers and servants of such person or body of persons, or between such person or body of persons and any other persons in relation to the working or maintenance of the railroad, or in relation to the supply or working of the plant of such railroad, which would, if such possession had not been taken, have been enforceable by or against the said person or body of persons, shall, during the continuance of such possession, be enforceable by or against her Majesty.

For the purposes of this section "railroad" shall include any tramway, whether worked by animal or mechanical power or partly in one way and partly in the other, and any stations, works or accommodation belonging to or required for the working of such railroad or tramway.

"Plant" shall include any engines, rolling stock, horses or other animal or mechanical power, and all things necessary for the proper working of a railroad or tramway which are not included in the word "railroad."

(*a*) See also National Defence Act, 1888, s. 4, p. 367, post.

## 35 & 36 VICT. CAP. 50.

*An Act to protect Railway Rolling Stock from Distraint when on hire.* [6th August, 1872.

Whereas it is expedient that protection from distress should in certain cases be extended to rolling stock:

Be it therefore enacted as follows:

Short title.

1. This act may be cited as "The Railway Rolling Stock Protec[tion] Act, 1872."

Interpretation.

2. In this act—

"Rolling stock."

"Rolling stock" includes waggons, trucks, carriages of all kinds, locomotive engines used on railways:

"Rent."

"Rent" includes royalty or other reservation in the nature of rent:

"Work."

"Work" includes any colliery, quarry, mine, manufactory, wareho[use], wharf, pier, or jetty, in or on which is any railway siding:

"Tenant."

"Tenant" includes a lessee, sub-lessee, or other person having a[n] interest in a work under a lease or agreement, or by use and occupation, or being otherwise liable to pay rent in respect of a work:

"Person."

"Person" includes a body corporate:

"Court of summary jurisdiction."

"Court of summary jurisdiction" means any justices of the peace, metropolitan police magistrate, stipendiary magistrate, sheriff, sheriff substitute, or other magistrate or officer, by whatever name called, who is capable of exercising jurisdiction in summary proceedings for the recovery of penalties.

Rolling stock protected from distress or sale in certain cases.

3. Rolling stock being in a work shall not be liable to distress for rent payable by a tenant of the work, if such rolling stock is not the actual property of such tenant, and has upon it a distinguishing metal plate affixed to a conspicuous part thereof, or a distinguishing brand or other mark conspicuously impressed or made thereon, sufficiently indicating the actual owner thereof.

Remedy in case distress proceeded with.

4. Where any such rolling stock as aforesaid is distrained, a court of summary jurisdiction may make against the landlord such summary order for restoration of the rolling stock or for payment of the real value thereof, and respecting costs or otherwise, and may make against the person distraining such order in the matter, and respecting costs, as to the court seems just.

Not to extend to protect tenant's interest in rolling stock.

5. This act shall not extend to protect from distress the interest which any tenant may have in any rolling stock otherwise protected under this act, but such interest may be distrained upon by the landlord and disposed of in the same manner as the whole interest of such tenant, if he had possessed the same; and in case of disagreement between the landlord and the parties claiming such rolling stock as to the mode of disposing of such interest, the same shall be settled by the court of summary jurisdiction; and the court shall, on the application of either party, make such order therein as to the court shall seem fit.

Appeal to quarter sessions.

6. If any party thinks himself aggrieved by any order or adjudication of a court of summary jurisdiction under this act, or by dismissal of his complaint by any such court, he may appeal therefrom, subject to the conditions and regulations following; (that is to say,)

(1.) The appeal shall be made to some court of general or quart[er] sessions (*b*).

(*b*) The remainder of this section, as to time for appealing, notice, and recognizance, is repealed by the Summary [Juris]diction Act, 1884, 47 & 48 Vict. c. 4[3].

7. No order or conviction of a court of summary jurisdiction under this act shall be quashed for want of form, or be removed by certiorari or otherwise (at the instance either of the crown or of any private party) into any superior court. Exclusion of certiorari.

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## 36 & 37 VICT. CAP. 48.

*An Act to make better provision for carrying into effect "The Railway and Canal Traffic Act, 1854," and for other purposes connected therewith.* [21st July, 1873. [See vol. I. ch. XI.]

Be it enacted as follows:

### *Preliminary.*

1. This act may be cited as "The Regulation of Railways Act, 1873." Short title.

2. This act shall, except as herein is otherwise expressly provided, come into operation on the 1st day of September, 1873, which date is in this act referred to as the commencement of this act. Commencement of act.

3. In this act— Definitions.

The term "railway company" includes any person being the owner or lessee of, or working any railway in the United Kingdom constructed or carried on under the powers of any act of parliament. "Railway Company."

The term "canal company" includes any person being the owner or lessee of, or working, or entitled to charge tolls for the use of any canal in the United Kingdom constructed or carried on under the powers of any act of parliament: "Canal Company."

The term "person" includes a body of persons corporate or unincorporate: "Person."

The term "railway" includes every station, siding, wharf or dock of or belonging to such railway and used for the purposes of public traffic: "Railway."

The term "canal" includes any navigation which has been made under or upon which tolls may be levied by authority of parliament, and also the wharves and landing-places of and belonging to such canal or navigation, and used for the purposes of public traffic: "Canal."

The term "traffic" includes not only passengers and their luggage, goods, animals and other things conveyed by any railway company or canal company, but also carriages, waggons, trucks, boats and vehicles of every description adapted for running or passing on the railway or canal of any such company: "Traffic."

The term "mails" includes mail bags and post-letter bags: "Mails."

The term "special act" means a local or local and personal act, or an act of a local and personal nature, and includes a provisional order of the Board of Trade confirmed by act of parliament, and a certificate granted by the Board of Trade under "The Railways Construction Facilities Act, 1864." "Special act."

The term "the treasury" means the commissioners of her Majesty's treasury for the time being: "The treasury."

[*The term "superior court" means in England any of her Majesty's Superior Courts at Westminster, in Ireland any of her Majesty's*

replaced by s. 31 of the Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49, by virtue of s. 6 of the Summary Jurisdiction Act, 1874.

*Superior Courts at Dublin, and in Scotland the Court of Session.*] Repealed by act of 1888.

*Appointment and Duties of Railway Commissioners.*

ilway commissioners.

4. [*For the purpose of carrying into effect the provisions of "The Railway and Canal Traffic Act, 1854" (c), and of this act (d), it shall be lawful for her Majesty, at any time after the passing of this act, by warrant under the royal sign manual, to appoint not more than three commissioners, of whom one shall be of experience in the law and one of experience in railway business, and not more than two assistant commissioners, and upon the occurrence of any vacancy in the office of any such commissioner or assistant commissioner from time to time in like manner to appoint some fit person to fill the vacancy. It shall be lawful for the lord chancellor, if he think fit, to remove for inability or misbehaviour any commissioner appointed in pursuance of this act.*

*The three commissioners appointed under this act (and in this act referred to as the commissioners) shall be styled the railway commissioners, and shall have an official seal which shall be judicially noticed. They may act notwithstanding any vacancy in their number. The said assistant commissioners shall hold office during the pleasure of her Majesty.*] Repealed by act of 1888.

Commissioners not to be interested in railway or canal stock.

5. Any person appointed a commissioner under this act shall within three calendar months after his appointment absolutely sell and dispose of any stock, share, debenture stock, debenture bond, or other security of any railway or canal company in the United Kingdom which he shall at the time of his appointment own or be interested in for his own benefit; and it shall not be lawful for any person appointed a commissioner under this act, so long as he shall hold office as such commissioner, to purchase, take, or become interested in for his own benefit any such stock, share, debenture stock, debenture bond, or other security; and if any such stock, share, debenture stock, debenture bond, or other security, or any interest therein, shall come to or vest in such commissioner by will or succession, for his own benefit, he shall within three calendar months after the same shall so come to or vest in him absolutely sell and dispose of the same or his interest therein.

It shall not be lawful for the commissioners, except by consent of the parties to the proceedings, to exercise any jurisdiction by this act conferred upon them in any case in which they shall be, directly or indirectly, interested in the matter in question.

To give whole time to duties.

The commissioners shall devote the whole of their time to the performance of their duties under this act, and shall not accept or hold any office or employment inconsistent with this provision.

Transfer to commissioners of jurisdiction under Traffic Act, 1854, s. 3.

6. Any person complaining of anything done or of any omission made in violation or contravention of section two (e) of "The Railway and Canal Traffic Act, 1854," or of section sixteen of "The Regulation of Railways Act, 1868" (f), or of this act, or of any enactment amending or applying the said enactments respectively, may apply to the commissioners, and upon the certificate of the Board of Trade alleging any such violation or contravention any person appointed by the Board of Trade in that behalf may in like manner apply to the commissioners; and for the purpose of enabling

(c) 17 & 18 Vict. c. 31, ante.

(d) By s. 8 of the Railway and Canal Traffic Act, 1888, p. 348, post, the jurisdiction conferred upon the Railway Commissioners by this act is transferred to the Railway and Canal Commission, and by s. 59 of that act the enactments of this act here printed in italics are repealed.

(e) Recited at length in preamble to sect. 11 of the present act.

(f) 31 & 32 Vict. c. 119 (p. 281, ante). The 16th section (the 2nd paragraph of which is repealed by the act of 1888) provides for equal treatment of the public in the working of steam vessels.

the commissioners to hear and determine the matter of any such complaint, they shall have and may exercise all the jurisdiction conferred by section three of "The Railway and Canal Traffic Act, 1854," on the several courts and judges empowered to hear and determine complaints under that act; and may make orders of like nature with the writs and orders authorized to be issued and made by the said courts and judges; and the said courts and judges shall, except for the purpose of enforcing any decision or order of the commissioners, cease to exercise the jurisdiction conferred on them by that section.

Power for commissioners to enable companies to explain alleged violation of law.

**7.** Where the commissioners have received any complaint alleging the infringement by a railway company or canal company of the provisions of any enactment in respect of which the commissioners have jurisdiction, they may, if they think fit, before requiring or permitting any formal proceedings to be taken on such complaint, communicate the same to the company against whom it is made, so as to afford them an opportunity of making such observations thereon as they may think fit.

Reference to commissioners of differences between companies.

**8.** Where any difference between railway companies or between canal companies, or between a railway company and a canal company, is, under the provisions of any general or special act, passed either before or after the passing of this act, required or authorized to be referred to arbitration, such difference shall, at the instance of any company party to the difference and with the consent of the commissioners, be referred to the commissioners for their decision in lieu of being referred to arbitration: Provided that the power of compelling a reference to the commissioners in this section contained shall not apply to any case in which any arbitrator has in any general or special act been designated by his name or by the name of his office, or in which a standing arbitrator having been appointed under any general or special act, the commissioners are of opinion that the difference in question may more conveniently be referred to him (*ff*).

References generally.

**9.** Any difference to which a railway company or canal company is a party, may, on the application of the parties to the difference, and with the assent of the commissioners, be referred to them for their decision.

Transfer to commissioners of powers of Board of Trade over working agreements and use of steam-vessels.

**10.** The following powers and duties of the Board of Trade shall be transferred to the commissioners; namely,

(1.) The powers of the Board of Trade under Part III. of "The Railways Clauses Act, 1863" (*g*), or under any special act, with respect to the approval of working agreements between railway companies; and,

(2.) The powers and duties of the Board of Trade under section thirty-five of "The Railways Clauses Act, 1863" (*h*), with respect to the exercise by railway companies of their powers in relation to steam vessels:

And the provisions of the said acts conferring such powers or imposing such duties, or otherwise referring to such powers or duties, shall, so far as is consistent with the tenor thereof, be read as if the commissioners were therein named instead of the Board of Trade.

### *Explanation and Amendment of Law.*

**11, 12.** *Forwarding of through traffic at through rates.* Repealed by act of 1888, and replaced by ss. 25, 26 of that act, post.

**13.** *Complaints to commissioners by public corporations, &c.* Repealed by act of 1888, and replaced by sect. 7 of that act.

Publication of rates.

**14.** Every railway company and canal company shall keep at each of their stations and wharves a book or books showing every rate for the time

(*ff*) See act of 1888, 51 & 52 Vict. c. 25, s. 15, p. 349, post.

(*g*) 26 & 27 Vict. c. 92, ss. 22—29.

(*h*) 26 & 27 Vict. c. 92.

being charged for the carriage of traffic, other than passengers and their luggage, from that station or wharf to any place to which they book, including any rates charged under any special contract, and stating the distance from that station or wharf of every station, wharf, siding or place to which any such rate is charged.

Every such book shall during all reasonable hours be open to the inspection of any person without the payment of any fee.

Distinguishment of elements of rates.

The commissioners may from time to time, on the application of any person interested, make orders with respect to any particular description of traffic, requiring a railway company or canal company to distinguish in such book how much of each rate is for the conveyance of the traffic on the railway or canal, including therein tolls for the use of the railway or canal, for the use of carriages or vessels, or for locomotive power, and how much is for other expenses, specifying the nature and detail of such other expenses.

Any company failing to comply with the provisions of this section shall for each offence, and in the case of a continuing offence, for every day during which the offence continues, be liable to a penalty not exceeding five pounds, and such penalty shall be recovered and applied in the same manner as penalties imposed by "The Railways Clauses Consolidation Act, 1845,"* and "the Railways Clauses Consolidation (Scotland) Act, 1845" (*i*) (as the case may require), are for the time being recoverable and applicable.

* Page 129, ante.

Power to commissioners to fix terminal charges.

[See vol. I. ch XVI. s. 3.]

**15.** The commissioners shall have power to hear and determine any question or dispute which may arise with respect to the terminal charges of any railway company, where such charges have not been fixed by any act of parliament, and to decide what is a reasonable sum to be paid to any company for loading and unloading, covering, collection, delivery and other services of a like nature; any decision of the commissioners under this section shall be binding on all courts and in all legal proceedings whatsoever.

Agreements between railway companies and canal companies.

**16.** No railway company or canal company, unless expressly authorized thereto by any act passed before the passing of this act, shall, without the sanction of the commissioners, to be signified in such manner as they may by general order or otherwise direct, enter into any agreement whereby any control over or right to interfere in or concerning the traffic carried or rates or tolls levied on any part of a canal is given to the railway company, or any persons managing or connected with the management of any railway; and any such agreement made after the commencement of this act without such sanction shall be void.

The commissioners shall withhold their sanction from any such agreement which is in their opinion prejudicial to the interests of the public.

Publication of agreements.

Not less than one month before any such agreement is so sanctioned, copies of the intended agreement certified under the hand of the secretary of the railway company or one of the railway companies party or parties thereto, shall be deposited for public inspection at the office of the commissioners, and also at the office of the clerk of the peace of the county, riding or division in England or Ireland in which the head office of any canal company party to the agreement is situate, and at the office of the principal sheriff clerk of every such county in Scotland, and notice of the intended agreement, setting forth the parties between whom or on whose behalf the same is intended to be made, and such further particulars with respect thereto as the commissioners may require, shall be given by advertisement in the London, Edinburgh or Dublin Gazette, according as the

(*i*) 8 & 9 Vict. c. 33, ss. 137—152. The provisions of the Scotch act do not materially differ from those of the English one.

head office of any canal company party to the agreement is situate in England, Scotland or Ireland, and shall be sent to the secretary or principal officer of every canal company any of whose canals communicates with the canal of any company party to the agreement; and shall be published in such other way, if any, as the commissioners for the purpose of giving notice to all parties interested therein by order direct.

Maintenance of canals by railway companies.

**17.** Every railway company owning or having the management of any canal or part of a canal shall at all times keep and maintain such canal or part, and all the reservoirs, works, and conveniences thereto belonging, thoroughly repaired and dredged and in good working condition, and shall preserve the supplies of water to the same, so that the whole of such canal or part may be at all times kept open and navigable for the use of all persons desirous to use and navigate the same without any unnecessary hindrance, interruption or delay (*j*).

*Conveyance of Mails.*

Conveyance of mails.

**18.** Every railway company shall convey by any train all such mails as may be tendered for conveyance by such train, whether such mails be under the charge of a guard appointed by the Postmaster General or not, and notwithstanding that no notice in writing requiring mails to be conveyed by such train has been given to the company by the Postmaster-General (*k*).

Every railway company shall afford all reasonable facilities for the receipt and delivery of mails at any of their stations without requiring them to be booked or interposing any other delay.

Where the mails are in charge of a guard appointed by the Postmaster General, every railway company shall permit such guard, if he think fit, to receive and deliver them at any station by himself or his assistants, rendering him nevertheless such aid as he may require.

Remuneration for conveyance of mails.

**19.** Every railway company shall be entitled to reasonable remuneration for any services performed by them in pursuance of this act with respect to the conveyance of mails, and such remuneration shall be paid by the Postmaster-General.

Any difference between the Postmaster General and any railway company as to the amount of such remuneration, or as to any other question arising under this act, shall be decided by arbitration, in manner provided by the act of the session of the first and second years of the reign of her present Majesty, chapter ninety-eight, or, at the option of such railway company, by the commissioners.

Conveyance of mails on steam vessels.

**20.** Where a railway company use, maintain, or work, or are party to any arrangement for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, all provisions contained in any act with respect to the conveyance of mails by railways shall, so far as they are applicable to the conveyance of mails by steam vessels, extend to the steam vessels so used, maintained, or worked.

*Regulations as to Commissioners.*

**21—25.** [*Assistant commissioners; salary of commissioners; assessors; officers and clerks; powers of commissioners.* Repealed by Act of 1888.]

Orders of commissioners.

**26.** Any decision or any order made by the commissioners for the purpose of carrying into effect any of the provisions of this act may be made a rule or order of any superior court, and shall be enforced either in the manner directed by section 3 * of "The Railway and Canal Traffic Act,

* Page 176.

(*j*) As to canals, see further act of 1888, Pt. III. p. 358, post.

(*k*) See 1 & 2 Vict. c. 98, s. 1; 10 & 11 Vict. c. 85, s. 16; and 31 & 32 Vict. c. 119 ("The Regulation of Railways Act, 1868"), s. 36, ante.

1854," as to the writs and orders therein mentioned, or in like manner as any rule or order of such court.

For the purpose of carrying into effect this section, general rules and orders may be made by any superior court in the same manner as general rules and orders may be made with respect to any other proceedings in such court.

*The commissioners may review and rescind or vary any decision or order previously made by them or any of them.*

*Appeal upon question of law.*

*The commissioners shall, in all proceedings before them under sections 6, 11, 12 and 13 of this act, and may, if they think fit, in all other proceedings before them under this act, at the instance of any party to the proceedings before them, and upon such security being given by the appellant as the commissioners may direct, state a case in writing for the opinion of any superior court determined by the commissioners upon any question which in the opinion of the commissioners is a question of law.*

*The court to which the case is transmitted shall hear and determine the question or questions of law arising thereon, and shall thereupon reverse, affirm, or amend the determination in respect of which the case has been stated, or remit the matter to the commissioners with the opinion of the court thereon, or may make such other order in relation to the matter, and may make such order as to costs, as to the court may seem fit, and all such orders shall be final and conclusive on all parties: Provided that the commissioners shall not be liable to any costs in respect or by reason of any such appeal.*

*The operation of any decision or order made by the commissioners shall not be stayed pending the decision of any such appeal, unless the commissioners shall otherwise order.*

*Save as aforesaid, every decision and order of the commissioners shall be final.* Repealed by Act of 1888, and replaced by sect. 17 of that act.

Sittings.

**27.** The commissioners shall sit at such times and in such places and conduct their proceedings in such manner as may seem to them most convenient for the speedy despatch of business; they may, subject as in this act mentioned, sit either together or separately, and either in private or in open court, but any complaint made to them shall, on the application of any party to the complaint, be heard and determined in open court.

*Costs.*

**28.** *The costs of and incidental to any proceeding before the commissioners shall be in the discretion of the commissioners.* Repealed by Act of 1888, and replaced by sect. 19 of that act.

**29.** [*Power to make general orders* (l); *Hearing before one or two commissioners.*] Repealed by Act of 1888, and replaced by sect. 20 of that act.

Evidence of documents.

**30.** Every document purporting to be signed by the commissioners, or any one of them, shall be received in evidence without proof of such signature, and until the contrary is proved shall be deemed to have been so signed and to have been duly executed or issued by the commissioners.

Annual Reports.

**31.** The commissioners shall, once in every year, make a report to her Majesty of their proceedings under this act during the past year, and such report shall be laid before both houses of Parliament within fourteen days after the making thereof if Parliament is then sitting, and if not, then within fourteen days after the next meeting of Parliament.

## *Miscellaneous.*

Determination of fees.

**32.** The commissioners may, at any time after the passing of this act, by general order, with the concurrence of the treasury, appoint the fees to be

(l) For the amended general Orders of the Commissioners issued in 1874, see the Appendix to the 7th edition of this work, p. 960.

taken in relation to proceedings before them, and may from time to time, by general order, with the like concurrence, increase, reduce, or abolish all or any of such fees, and appoint new fees to be taken in relation to such proceedings.

Collection of fees.

**33.** [*The Public Offices Fees Act, 1866 (m), shall apply to all fees taken in relation to any proceedings before the commissioners.*

*Any fee or payment in the nature or lieu of a fee paid in respect of any proceedings before the commissioners and collected otherwise than by means of stamps shall be paid into the receipt of her Majesty's exchequer in such manner as the treasury from time to time direct, and carried to the consolidation fund* ] Repealed by Statute Law Revision Act, 1883.

*Taxation of costs.*

**34.** *The costs, charges, and expenses of and incidental to any proceedings before the commissioners which are incurred by any person shall, if required, be taxed in the same manner and by the same persons as if such proceedings were proceedings in a superior court.* Repealed by Act of 1888, and replaced by sect. 19 of that act.

Notices how to be given.

**35.** Any notice required or authorized to be given under this act may be in writing or in print, or partly in writing and partly in print, and may be sent by post, and if sent by post shall be deemed to have been received at the time when the letter containing the same would have been delivered in the ordinary course of the post; and in proving such sending it shall be sufficient to prove that the letter containing the notice was prepaid and properly addressed and put into a post office.

Application of Act to Scotland.

**36.** In the application of this act to Scotland—

(1.) The term "attending on subpœna before a court of record" means attending on citation the court of justiciary:

(2.) The Queen's and lord treasurer's remembrancer shall perform the duties of a master of one of the superior courts under this act.

*Temporary Provisions.*

*Duration of office and powers of commissioners.*

**37.** *This act shall continue in force for five years next after the passing of this act, and thenceforth until the end of the then next session of Parliament, but the expiration of this act shall not affect the validity of anything done before such expiration.* Repealed by Act of 1888, sect. 47 of which perpetuates the present act after successive continuations by "Expiring Laws Continuance Acts."

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## 36 & 37 VICT. CAP. 76.

*An Act to make further Provision for the Regulation of Railways.*
[5th August, 1873.

Whereas it is expedient to make further provision with respect to the regulation of railways: Be it enacted, by (&c., &c.), as follows:

Short titles of Railway Regulation Acts.

**1.** The acts hereinafter mentioned may be cited for all purposes by the short titles following; that is to say,

The act 3 & 4 Vict. c. 97, and intituled "An Act for regulating Railways," by the short title of "The Railway Regulation Act, 1840:"

The act 5 & 6 Vict. c. 55, and intituled "An Act for the better Regulation of Railways and for the Conveyance of Troops," by the short title of "The Railway Regulation Act, 1842:"

Short title of this Act.

This act by the short title of "The Railway Regulation Act (Returns of Signal Arrangements, Working, &c.), 1873:"

(m) 29 & 30 Vict. c. 76, repealed and replaced by the Public Office Fees Act, 1879, 42 & 43 Vict. c. 78.

This act shall, so far as is consistent with the tenor thereof, be construed as one with the above-mentioned acts, and the said acts, together with this act, may be cited for all purposes as "The Railway Regulation Acts, 1840, 1842, 1873."

Definition of Summary Jurisdiction Acts.

2. The expression "Summary Jurisdiction Acts" means—

In England, the act 11 & 12 Vict. c. 43, intituled "An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to Summary Convictions and Orders," and any act passed or to be passed amending the same:

In Scotland, the Summary Procedure Act, 1864, and any act passed or to be passed amending the same:

In Ireland, the Petty Sessions (Ireland) Act, 1851, and in Dublin the acts regulating the powers of justices of the peace, or of the police of Dublin metropolis, and any act passed or to be passed amending the said acts or any of them.

Definition of Board of Trade.

3. The lords of the committee of her Majesty's privy council appointed for trade and foreign plantations are in this act referred to as "the Board of Trade."

Returns to be made to the Board of Trade by railway companies.

4. Every railway company shall, on or before the fifteenth day of February in every year, make a full and true return to the Board of Trade of the matters and in the forms specified in the first and second schedules annexed to this act, and the notes annexed to such schedules shall be deemed to be part of this act in the same manner as if they were enactments contained in the body thereof.

If any railway company makes default in making any return required by this act, it shall incur a penalty not exceeding five pounds for every day during which such default continues, such penalty to be recovered in manner provided by the Summary Jurisdiction Acts, upon the complaint of any officer of the Board of Trade: Provided that the Board of Trade may in any case dispense with such return or any part thereof where they deem the same inapplicable.

Returns by coroners.

5. Every coroner in England and Ireland within seven days after holding an inquest on the body of any person who is proved to have been killed on a railway or to have died in consequence of injuries received on a railway, and in Scotland every procurator fiscal within the like time and in like cases, shall make to one of her Majesty's principal secretaries of state, in such form as he may require, a return of the death and the cause thereof.

Amendment of sect. 6 of the Railway Regulation Act, 1842.

* Page 16, ante.

6. Where any inspecting officer of the Board of Trade has reported to that board, in pursuance of the sixth section of the Railway Regulation Act, 1842,* that the opening of any railway or portion of a railway would in his opinion be attended with danger to the public using the same by reason of the incompleteness of the works or permanent way, or the insufficiency of the establishment for working such railway, together with the grounds of such opinion, and the Board of Trade have postponed the opening of such railway or portion of a railway in pursuance of such section for the period of one calendar month, it shall be lawful for the said board, if it thinks fit, unless in the meantime it is stated by the company to whom such railway belongs that all requisitions made by such inspecting officer upon his inspection of such railway or portion of a railway as being necessary for the safety of the public have been complied with, to direct the postponement of the opening of such railway or portion of a railway for a further period not exceeding one month without going to the expense of directing a further inspection to be made by the officer, and so on from time to time until the requisitions made by such officer have been complied with, or the said board is otherwise satisfied that such railway or portion of a railway can be opened with safety to the public.

## SCHEDULES to which the foregoing Act refers.

### FIRST SCHEDULE.

| NAME OF RAILWAY. | Number of Cases in which any Passenger Line is connected with or crossed on the level by:— | | | | Number of Cases in which the usual requirements of the Inspecting Officers of the Board of Trade have or have not been complied with in the following respects:— | | | | | | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Any other Passenger Line. | Any Goods Line. | Any Siding. | Any crossover Road. | Concentration of Signal and Point Levers. | | Interlocking of Signal and Point Levers. | | Addition of Safety Points in case of Goods Lines and Sidings. | | |
| | | | | | Have | Have not | Have | Have not | Have | Have not | |
| Main Line. | *a* | *b* | *c* | *d* | *e* | *f* | *g* | *h* | *k* | *l* | |
| Branches. | | | | | | | | | | | |

NOTES.—*a* and *b*.—A single or double junction, or a single or double crossing on the level, to be considered as one case. On single lines of railway each connection with a portion of double line at loops, terminal stations or junctions to be stated.

*c*.—Each individual instance of a siding joining a passenger line, whether at a station or elsewhere, not included in *a* or *b*, and each instance of connection between such siding and such passenger line, to be enumerated.

*d*.—Each crossover road, not included under *c*, connecting any two lines, to be considered one case.

*e* and *f*.—These numbers to represent the proportion of connections or crossings enumerated under *a*, *b*, *c*, *d*, the levers for working signals or points in connection with which have or have not been concentrated.

*g* and *h*.—These numbers to represent the proportions of connections or crossings enumerated under *a*, *b*, *c*, *d*, the levers for working signals and points in connection with which have or have not been interlocked.

*k* and *l*.—All cases in which safety points have or have not been applied to goods lines or goods sidings joining passenger lines, and enumerated under *b* and *c*, to be here stated.

## SECOND SCHEDULE.

| Railway Company. | Total length of the Company's Railway open *for passenger traffic*, and of all other Railways open *for passenger traffic* which are worked by them. | | Portions of the Company's Railways, or of other Railways worked by them. (Where the system is not continuous, enter separately one under the other, under the head applicable, each Main Line or portion of Main Line or Branch Line so worked.) | | | | | | | | | | | | | Length of the portions of Company's Railway and of other Railways worked by them for *goods and mineral traffic only*. | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Worked by Telegraph. | | | | | Worked by the Electric Telegraph but not on either of the foregoing systems. | | | Single Lines of Railway (not included in the foregoing columns), (1) Worked under the system in which only one engine in steam or two or more engines coupled together are allowed to be upon the Single Line or portions thereof at one and the same time, or (2) Worked under the Train Porter System; or (3) Worked under the Train Staff System | | | | | |
| | Consisting of two or more lines of rails. | Consisting of a single line of rails only. | On the Absolute Block System. | Distance of Double Line. | Distance of Single Line worked by the Absolute Block System in addition to the Train Staff System. | On the Permissive Block System. | Distance of Double Line. | — | Distance of Double Line. | Distance of Single Line worked by the Electric Telegraph in addition to the Train Staff System. | — | System as above (1) Distance. | Train Porter System (2). Distance | Train Staff System. (3). Distance. | | |
| | m. ch. | m. ch. | From to | m. ch. | m. ch. | From to | m. ch | From to | m. ch. | m. ch. | From to | m ch. | m. ch | m. ch | m ch. | |

# 37 & 38 VICT. CAP. 40.

*An Act to amend the Powers of the Board of Trade with respect to Inquiries, Arbitrations, Appointments, and other matters under special Acts, and to amend the Regulation of Railways Act, 1873, so far as regards the reference of Differences to the Railway Commissioners in lieu of Arbitrators.*

[30th of July, 1874.

Be it enacted by (&c. &c.), as follows :

*Preliminary.*

**1.** This act may be cited as "The Board of Trade Arbitrations, &c. Act, 1874." Short title.

PART I.

*Board of Trade Inquiries, &c.*

Power of Board of Trade as to inquiry.

**2.** Where, under the provisions of any special act, passed either before or after the passing of this act, the Board of Trade are required or authorized to sanction, approve, confirm, or determine any appointment, matter, or thing, or to make any order, or to do any other act or thing for the purposes of such special act, the Board of Trade may make such inquiry as they may think necessary for the purpose of enabling them to comply with such requisition or exercise such authority.

Where an inquiry is held by the Board of Trade for the purposes of this section, or in pursuance of any general or special act passed either before or after the passing of this act, directing or authorizing them to hold any inquiry, the Board of Trade may hold such inquiry by any person or persons duly authorized in that behalf by an order of the Board of Trade, and such inquiry if so held shall be deemed to be duly held.

Expenses connected with arbitration, sanction, &c.

**3.** Where application is made in pursuance of any special act passed either before or after the passing of this act, to the Board of Trade to be arbitrators, or to appoint any arbitrator, referee, engineer, or other person, or to hold any inquiry, or to sanction, approve, confirm, or determine, any appointment, matter, or thing, or to make any order, or to do any other act or thing for the purposes of such special act, all expenses incurred by the Board of Trade in relation to such application and the proceedings consequent thereon, shall, to such amount as the Board of Trade may certify by their order to be due, be defrayed by the parties to such application, and (subject to any provision contained in the said special act) shall be defrayed by such of the parties as the Board of Trade may by order direct, or if so directed by an order of the Board of Trade shall be paid as costs of the arbitration or reference.

The Board of Trade may, if they think fit, on or at any time after the making of the application, by order require the parties to the application, or any of them, to pay to the Board of Trade such sum as the Board of Trade think requisite for or on account of those expenses, or to give security to the satisfaction of the Board of Trade for the payment of those expenses on demand, and if such payment or security is not made or given may refuse to act in pursuance of the application.

All expenses directed by an order of the Board of Trade or an award in pursuance of this section to be paid may be recovered in any court of competent jurisdiction as a debt, and if payable to the Board of Trade, as a

debt to the Crown, and an order of the Board of Trade shall be conclusive evidence of the amount of such expenses.

Meaning of "special Act."

4. In this part of this act the term "special act" means a local or local and personal act, or an act of a local and personal nature, and includes a provisional order of the Board of Trade confirmed by act of Parliament and a certificate granted by the Board of Trade under the Railways Construction Facilities Act, 1864.

Order of Board of Trade may be in writing.

An order of the Board of Trade for the purposes of this part of this act, or of any such special act as is referred to in this part of this act, may be made by writing under the hand of the president or one of the secretaries of the board.

Repeal of 35 & 36 Vict. c. 18.

5. The act 35 & 36 Vict. c. 18, intituled "An act for regulating Inquiries by the Board of Trade," is hereby repealed, without prejudice to anything done or suffered under that act.

## PART II.

### *Reference to Railway Commissioners.*

Power of Board of Trade to appoint Railway Commissioners to be arbitrators or umpire.

6. Where any difference to which a railway company or canal company is a party is required or authorized under the provisions of any general or special act passed either before or after the passing of this act, to be referred to the arbitration of or to be determined or settled by the Board of Trade, or some person or persons appointed by the Board of Trade, the Board of Trade may, if they think fit, by order in writing under the hand of the president or one of the secretaries of the board, refer the matter for the decision of the railway commissioners, and appoint them arbitrators or umpire, as the case may be, and thereupon the commissioners for the time being shall have the same powers as if the matter had been referred to their decision in pursuance of the Regulation of Railways Act, 1873,* and also any further powers which the Board of Trade, or an arbitrator or arbitrators, or umpire appointed by the Board of Trade, would have had for the purpose of the arbitration, if the difference had not been referred to the Commissioners: Provided always, that this section shall not apply to any case in which application is made to the Board of Trade for the appointment of an umpire under the twenty-eighth section of the Lands Clauses Consolidation Act, 1845.†

* S. 8, p. 309.

† Page 67, ante.

Declaration as to powers of commissioners in arbitrations.

7. Where any difference is referred for the decision of the commissioners in pursuance of the Regulation of Railways Act, 1873, as amended by this part of this act, the commissioners shall have the same power by their decision of rescinding, varying, or adding to any award or other decision previously made by any arbitrator or arbitrators (including therein the Board of Trade) with reference to the same subject-matter as any arbitrator or arbitrators would have had if the difference had been referred to him or them.

Construction with Act of 1873.

8. This part of this act shall be construed as one with the Regulation of Railways Act, 1873 [*and shall continue in force for the same time as that act and no longer, but the expiration of this part of this act shall not affect the validity of anything done before such expiration.* Repealed by Act of 1888].

The Regulation of Railways Act, 1873, together with this part of this act, may be cited as the Regulation of Railways Acts, 1873 and 1874.

## 38 VICT. CAP. 17 (THE EXPLOSIVES ACT, 1875).

*An Act to amend the Law with respect to manufacturing, keeping, selling, carrying and importing Gunpowder, Nitro-Glycerine and other Explosive Substances.* [14th June, 1875.

**3.** This act shall apply to gunpowder and other explosives, as defined by this section. Meaning of "explosive."

The term explosive in this act—

(1) Means gunpowder, nitro-glycerine, dynamite, gun cotton, blasting powders, fulminate of mercury or of other metals, coloured fires and every other substance, whether similar to those above mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect; and

(2) Includes fog signals, fireworks, fuzes, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined.

* * * * * *

**33.** The following general rules shall be observed with respect to the packing of gunpowder for conveyance— Rules for packing of explosive for conveyance.

1. The gunpowder, if not exceeding five pounds in amount, shall be contained in a substantial case, bag, canister, or other receptacle made and closed so as to prevent the gunpowder from escaping; and
2. The gunpowder, if exceeding five pounds in amount, shall be contained either in a single package or a double package. A single package shall be a box, barrel, or case of such strength, construction and character as may be for the time being approved by the government inspector as being of such strength, construction and character that it will not be broken or accidentally opened or become defective or insecure whilst being conveyed, and will not allow the gunpowder to escape. If the gunpowder is packed in a double package, the inner package shall be a substantial case, bag, canister, or other receptacle made and closed so as to prevent the gunpowder from escaping, and the outer package shall be a box, barrel, or case of wood or metal or other solid material, and shall be of such strength, construction and character that it will not be broken or accidentally opened or become defective or insecure whilst being conveyed, and will not allow the gunpowder to escape; and
3. The interior of every package, whether single or double, shall be kept free from grit and otherwise clean; and
4. Every package, whether single or double, when actually used for the package of gunpowder, shall not be used for any other purpose; and
5. There shall not be any iron or steel in the construction of any such single package or inner or outer package, unless the same is effectually covered with tin, zinc, or other material; and
6. The amount of gunpowder in any single package, or if there is a double package in any one outer package, shall not exceed one hundred pounds, except with the consent of and under conditions approved by a Government inspector; and
7. On the outermost package there shall be affixed the word "gunpowder" in conspicuous characters by means of a brand or securely attached label or other mark.

In the event of any breach (by any act or default) of any general rule in this section, the gunpowder in respect of which the breach is committed Penalty for breach of rules.

may be forfeited, and the person guilty of such breach shall be liable to a penalty not exceeding twenty pounds.

The secretary of state may from time to time make, and when made, repeal, alter and add to rules for the purpose of rescinding, altering or adding to the general rules contained in this section and the rules so made by the secretary of state shall have the same effect as if they were enacted in this section.

* * * * * *

Railway companies to make bye-laws.

**35.** Every railway company and every canal company over whose railway or canal any gunpowder is carried or intended to be carried shall, with the sanction of the Board of Trade, make bye-laws for regulating the conveyance, loading and unloading of such gunpowder on the railway or canal of the company making the bye-laws, and in particular for declaring and regulating all or any of the following matters in the case of such railway or canal; that is to say—

1. Determining the notice to be given of the intention to send gunpowder for conveyance as merchandize on the railway or canal; and
2. Regulating, subject to the general rules with respect to packing in this act contained, the mode of stowing and keeping gunpowder for conveyance, and of giving notice by brands, labels or otherwise, of the nature of the package containing the gunpowder; and
3. Regulating the description and construction of carriages, ships, or boats to be used in the conveyance of gunpowder; and
4. Prohibiting or subjecting to conditions and restrictions the conveyance of gunpowder with any explosive, or with any articles or substances, or in passenger trains, carriages, ships or boats; and
5. Fixing the places and times at which the gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one carriage, ship, or boat; and
6. Determining the precautions to be observed in conveying gunpowder, and in loading and unloading the carriages, ships and boats used in such conveyance, and the time during which the gunpowder may be kept during such conveyance, loading and unloading; and
7. Providing for the publication and supply of copies of the bye-laws; and
8. Enforcing the observance of this act both by their servants and agents, and also by other persons when on the canal or railway of such company; and
9. Generally for protecting, whether by means similar to those above mentioned or not, persons and property from danger.

Application of bye-laws, when confirmed by Board of Trade.

Such bye-laws when confirmed by the Board of Trade shall apply to the railway, canal agents, and servants of the company making the same, and to the persons using such railway or canal or the premises connected therewith and occupied by or under the control of such company.

The penalties to be annexed to any breach or attempt to commit any breach of any such bye-laws may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just according to the gravity of the offence, and according as it may be a first, second, or other subsequent offence, that is to say, pecuniary penalties not exceeding twenty pounds for each offence and ten pounds for each day during which the offence continues, and forfeiture of all or any part of the gunpowder in respect of which or being in the carriage, ship, or boat or train of carriages, ships, or boats in respect of which the breach of bye-law has taken place (*n*).

* * * * * *

(*n*) For bye laws under this section, see p. 387, post.

**37.** The secretary of state may from time to time make, and when made rescind, alter, or add to bye-laws for regulating the conveyance, loading and unloading of gunpowder in any case in which bye-laws made under any other provision of this act do not apply, and in particular for declaring or regulating all or any of the following matters; that is to say— Power to secretary of state to make bye laws.

1. Regulating the description and construction of carriages to be used in the conveyance of gunpowder as merchandize; and
2. Prohibiting or subjecting to conditions and restrictions the conveyance of gunpowder with any explosive, or with any articles or substances, or in passenger carriages; and
3. Fixing the places and times at which the gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one carriage; and
4. Determining the precautions to be observed in conveying gunpowder, and in loading and unloading the carriages used in such conveyance, and the time during which the gunpowder may be kept during such conveyance, loading and unloading; and
5. Providing for the publication and supply of copies of the bye-laws; and
6. Generally for protecting, whether by means similar to those above mentioned or not, persons or property from danger; and
7. Adapting, on good cause being shown, the bye-laws in force under this section to the circumstances of any particular locality.

The penalties to be annexed to any breach, or attempt to commit any breach, of any such bye-laws may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first, second, or other subsequent offence, that is to say, pecuniary penalties not exceeding twenty pounds for each offence, and ten pounds for each day during which the breach continues, and forfeiture of all or any part of the gunpowder in respect of which, or being in the carriage in respect of which, the breach of bye-law has taken place. Penalties.

For the purpose of any mode of conveyance which is not a conveyance by land, this section shall be construed as if ship and boat were included in the term carriage (*o*).

**38.** Any recommendation to her Majesty in council, any general rules with respect to packing, and any bye-laws which is or are proposed to be made under this act by a secretary of state or the Board of Trade, shall, before being so made, be published in such manner as the secretary of state or the Board of Trade, as the case may be, may direct, as being in his or their opinion sufficient for giving information thereof to all local authorities, corporations and persons interested. Publication of rules and bye-laws.

The bye-laws framed by any railway company, canal company, or harbour authority under this act shall, before being sanctioned by the Board of Trade, be published in such manner as may be directed by the Board of Trade, with a notice of the intention of such company or authority to apply for the confirmation thereof, and may be sanctioned by the Board of Trade with or without any omission, addition, or alteration, or may be disallowed.

Every such bye-law may be from time to time added to, altered, or rescinded by a bye-law made in like manner and with the like sanction as the original bye-law.

The secretary of state or the Board of Trade, as the case may be, shall receive and consider any objections or suggestions made by any local Suggestions by local authorities, &c.

(*o*) For bye laws under this section, see London Gazette of November 30th, 1875.

authority, corporation, or persons interested, with respect to any recommendation, general rules, or bye-laws published in pursuance of this section, and may, if it seem fit, amend such recommendation, general rules, or bye-laws, with a view of meeting such objections or suggestions, without again publishing the same.

Application of Part I of act (relating to gunpowder) to other explosives.

**39.** Subject to the provisions hereafter in this part of this act contained, Part I. of this act, relating to gunpowder, shall apply to every other description of explosive, in like manner as if those provisions were herein re-enacted, with the substitution of that description of explosive for gunpowder.

* * * * * *

Power to prohibit conveyance of "specially dangerous" explosives by order in council.

**43.** Notwithstanding anything in this act, her Majesty from time to time by order in council may prohibit, either absolutely or except in pursuance of a licence of the secretary of state under this act, or may subject to conditions or restrictions the manufacture, keeping, importation from any place out of the United Kingdom, conveyance and sale, or any of them, of any explosive which is of so dangerous a character that in the judgment of her Majesty it is expedient for the public safety to make such order:

Provided that such order shall not absolutely prohibit anything which may be lawfully done in pursuance of any continuing certificate under this act.

Any explosive manufactured or kept in contravention of any such order, shall be deemed to be manufactured or kept, as the case may be, in an unauthorized place. Any explosive conveyed in contravention of any such order shall be deemed to be conveyed in contravention of a bye-law made under this act with respect to the conveyance of explosives . . . .

* * * * * *

Inspection of railway by railway inspector.

**58.** The Board of Trade may from time to time by order direct—

(*a*) Any person acting under the Board as an inspector of railways to inquire into the observance of this act by any railway company or canal company, and generally to act with respect to any railway or canal as an inspector under this act; or

(*b*) [*Shipping*].

The Board of Trade may revoke any such order; and each such inspector shall, while such order is in force, have for that purpose the same powers and authorities as he has under the acts in pursuance of which he was originally appointed inspector, and also the powers and authorities of a government inspector under this act.

* * * * * *

Notice of accidents connected with explosive.

**63.** Where in, about, or in connexion with any carriage, ship or boat, either conveying an explosive, or on or from which an explosive is being loaded or unloaded, there occurs any accident by explosion or by fire, causing loss of life or personal injury, or if the amount of explosive conveyed or being so loaded or unloaded exceeds, in the case of gunpowder, half a ton, and in the case of any other explosive the prescribed amount (*p*), any accident by explosion or by fire, the owner or master of such carriage, ship or boat, and the owner of the explosive conveyed therein or being loaded or unloaded therefrom, or one of them, shall forthwith send or cause to be sent notice of such accident and of the loss of life or personal injury, if any, occasioned thereby to the secretary of state.

(*p*) By Order in Council published in the London Gazette of the 30th November, 1875, it is prescribed, that "In the case of any other explosive, whether with or without gunpowder, the amount in the aggregate shall be two hundred pounds; provided that nothing in the order shall apply where no explosive is conveyed, loaded or unloaded, other than ammunition of the 1st division of the 6th class."

Every such occupier, owner or master, as aforesaid, who fails to comply with this section shall be liable to a penalty not exceeding twenty pounds.

* * * * * *

Inspection of carriage by government inspector

**75.** Any of the following officers, namely, any government inspector under this act, any chief officer of police and any superior officer appointed for the purposes of this act, where the justices in petty sessions are the local authority, by the court of quarter sessions to which such justices belong, and in the case of any other local authority by the local authority itself, may, for the purpose of ascertaining whether the provisions of this act with respect to the conveyance, loading, unloading and importation of an explosive are complied with, enter, inspect and examine at any time, and as well on Sundays as on other days, the wharf, carriage, ship or boat of any carrier or other person who conveys goods for hire, or of the occupier of any factory, magazine or store, or of the importer of any explosive on or in which wharf, carriage, ship or boat he has reasonable cause to suppose an explosive to be for the purpose of or in course of conveyance, but so as not to unnecessarily obstruct the work or business of any such carrier, person, occupier or importer.

Any such officer, if he find any offence being committed under this act in any such wharf, carriage, ship or boat, or on any public wharf, may seize and detain or remove the said carriage, ship or boat, or the explosive, in such manner and with such precautions as appear to him to be necessary to remove any danger to the public, and may seize and detain the said explosive as if it were liable to forfeiture. Any officer above mentioned in this section and any officer of police or officer of the local authority who has reasonable cause to suppose that any offence against this act is being committed in respect of any carriage (not being on a railway) or any boat conveying, loading or unloading any explosive, and that the case is one of emergency, and that the delay in obtaining a warrant will be likely to endanger life, may stop and enter, inspect and examine such carriage or boat, and by detention or removal thereof or otherwise take such precautions as may be reasonably necessary for removing such danger in like manner as if such explosive were liable to forfeiture.

Every officer shall for the purpose of this section have the same powers and be in the same position as if he were authorized by a search warrant granted under this act, and any person failing to admit or obstructing such officer shall be liable to the same penalty.

* * * * * *

Power to classify explosives by order in council.

**106.** It shall be lawful for her Majesty from time to time, by order in council, to define for the purposes of this act the composition, quality and character of any explosive, and to classify explosives.

Where the composition, quality or character of any explosive has been defined by an order in council, any article alleged to be such explosive, which differs from such definition in composition, quality or character, whether by reason of deterioration or otherwise, shall not be deemed for the purposes of this act to be the explosive so defined (*q*).

(*q*) For Order in Council under this section, see p. 385, post.

## 38 & 39 VICT. CAP. 31.

*An Act to make perpetual Section Four of the Railway Companies Act, 1867, and Section Four of the Railway Companies (Scotland) Act, 1867.* [29th June, 1875.

30 & 31 Vict. c. 127. Whereas by sect. 4 of the Railway Companies Act, 1867, restrictions were placed on the liability of the rolling stock and plant of railway companies in England and Ireland to be taken in execution at law or in equity at any time after the passing of that act and before the 1st day of September, 1868:

30 & 31 Vict. c. 126. And whereas by sect. 4 of the Railway Companies (Scotland) Act, 1867, restrictions were placed on the liability of rolling stock and plant of railway companies in Scotland to be attached by diligence at any time after the passing of that act and before the 1st day of September, 1868:

31 & 32 Vict. c. 79. And whereas by the Railway Companies Act, 1868, it was enacted that the said sections should be read and have effect as if the 1st day of September, 1870, were therein mentioned instead of the first day of September, 1868:

And whereas the said sections have since been continued until the 31st day of December, 1875, and it is expedient that the same should be made perpetual:

Be it therefore enacted, by (&c., &c.), as follows:

Permanent exemption of rolling stock from execution. **1.** The Railway Companies Act, 1868, and also the words "and before the first day of September one thousand eight hundred and sixty-eight," in section four of the Railway Companies Act, 1867, and in section four of the Railway Companies (Scotland) Act, 1867, are hereby repealed, and the said sections shall be perpetual.

## 39 VICT. CAP. 5.

*An Act for enabling a further Sum to be raised for the purposes of the Telegraph Acts, 1868 to 1870.* [27th March, 1876.

Whereas divers funds have been authorized to be raised for the purposes of the Telegraph Acts, 1868 to 1870, and with a view to the payment under those acts of compensation to railway companies in respect of telegraphs, it is expedient to authorize the commissioners of her Majesty's Treasury (in this act referred to as the Treasury) to raise further funds for the purposes of those acts: Be it therefore enacted, by (&c. &c.) as follows:

Treasury may raise 500,000*l.* for purposes of Telegraph Acts. **1.** The Treasury may, in addition to any sum previously authorised to be raised by them, raise for the purpose of the Telegraph Acts, 1868 to 1870, any sum or sums of money not exceeding in the whole five hundred thousand pounds sterling, by the creation of three pounds per cent. per annum permanent annuities.

Such annuities shall be charged upon the consolidated fund, and be paid out of the permanent annual charge for the national debt.

The annuities shall be created by warrant of the Treasury to the governor and company of the Bank of England, directing them to inscribe in their books the amount of such annuities in the names directed by the warrant. The said annuities shall, in manner directed by the warrant, be consolidated

in the said books with annuities at the same rate of interest, and payable at the same date, and shall be transferable in the said books in like manner as the annuities with which they are consolidated, and shall be subject to the enactments relating to those annuities so far as is consistent with the tenor of those enactments.

**2.** All moneys raised in pursuance of this act shall be placed to the account of the paymaster-general at the Bank of England, and shall be issued from time to time under regulations to be made by the Treasury, and to be laid by them before parliament; such moneys shall not be applied for the purpose of the extension of telegraphs, but shall be applied only for the other purposes of the Telegraph Acts, 1868 to 1870. Application of moneys raised.

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## 41 VICT. CAP. 20.

*An Act to provide for returns respecting Continuous Brakes in use on Passenger Trains on Railways.* [17th June, 1878.

Be it enacted by (&c. &c.) as follows:

**1.** This act may be cited as the Railway Returns (Continuous Brakes) Act, 1878. Short title.

**2.** Every railway company shall twice in every year make to the Board of Trade returns respecting the use of continuous brakes on the passenger trains running on the railways worked by such company. Returns to be made twice a year by railway companies to Board of Trade respecting continuous brakes.

The returns shall contain the particulars and be in the form specified in the schedule to this act, or shall contain such other particulars and be in such other form as the Board of Trade from time to time prescribe (*qq*); and the Board of Trade may in any case dispense with any part of the returns where they deem the same inapplicable.

The returns shall be made for the six months ending on the last day of December and the last day of June in every year, or on such other days as the Board of Trade from time to time direct, and shall be made within fourteen days after the expiration of each six months.

Every return shall be signed by the officer of the company responsible for the correctness of the return, and by the chairman or deputy chairman of the directors of the company, or where there are no directors by the individual or one of the individuals bound to make the return.

Any railway company who fail to comply with this section shall be liable on summary conviction before a court of summary jurisdiction to a fine not exceeding five pounds for every day during which the default continues.

Any person who makes or is privy to the making of a return under this act which is to his knowledge false in any particular shall be liable on summary conviction before a court of summary jurisdiction to a fine not exceeding fifty pounds.

Expressions in this act have the same meaning as they have in the Regulation of Railways Act, 1871 (*r*).

(*qq*) For "other forms" prescribed by Board of Trade, see post, "Statutory Rules and Forms," &c.

(*r*) 34 & 35 Vict. c. 78, ante.

# SCHEDULE.

## Forms of Return.

Return for the Six Months ending on the day of , 18 , of the Amount and Description of Continuous Brake Power in use on the Passenger Trains running on the railways worked by the Railway Company.

| Name of Railway Company. | Name and Description of Brake or Brakes adopted by the Company and in use on Passenger Trains on Lines worked by them. | (1.) Whether the Brakes are instantaneous in action and capable of being applied by engine-driver and guards.<br>(2.) Whether self-acting.<br>(3.) Whether capable of being applied to every vehicle of a train.<br>(4.) Whether in regular use in daily working.<br>(5.) Whether the materials employed are of a durable character, easily maintained and kept in order. | Amount of Stock fitted with Continuous Brakes. | | | Amount of Stock NOT fitted with Continuous Brakes. | | Amount of Stock fitted during the above Six Months | | Special rules under which the Continuous Brakes are worked. |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Number of Engines and Tenders used for Passenger Trains. | Number of Vehicles. | | | | | | |
| | | | | Passenger Carriages. | Other Vehicles used for Passenger Trains. | Number of Engines and Tenders used for Passenger Trains. | Number of Passenger Carriages and other vehicles used for Passenger Trains. | Number of Engines and Tenders used for Passenger Trains. | Number of Passenger Carriages and other Vehicles used for Passenger Trains. | |
| | | | | | | | | | | |

Return for the six months ending on the day of , 18 , of all cases in which continuous brakes have, from any cause, failed to act when required to be brought into action on any railway worked by the Railway Company

| Name of Railway Company. | Name or Description of Brake which failed in being brought into use. | Date of Failure. | Particulars of circumstances relating to the causes of failure |
|---|---|---|---|
| | | | |

Return for the six months ending on the day of , 18 , of all cases in which continuous brakes have not been used on any passenger train running on a railway worked by the Railway Company.

| Name of Railway Company. | Name of Railway worked by Company on which Passenger Train ran without Continuous Brake. | Number of Passenger Trains so run. |
|---|---|---|
| | | |

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## 43 & 44 VICT. CAP. 42.

*An Act to extend and regulate the Liability of Employers to make Compensation for Personal Injuries suffered by Workmen in their service* (s). [7th September, 1880.

Be it enacted as follows:

**1.** Where after the commencement of this act personal injury is caused to a workman — Amendment of law. [See vol. I. ch. XVII. s. 2.]

(1.) By reason of any defect in the condition of the ways, works, machinery, or plant connected with or used in the business of the employer; or

(2.) By reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him whilst in the exercise of such superintendence; or

(3.) By reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform, and did conform, where such injury resulted from his having so conformed; or

(4.) By reason of the act or omission of any person in the service of the employer done or made in obedience to the rules or bye-laws

(s) As to duration of this act, see s. 10 and note, post.

of the employer, or in obedience to particular instructions given by any person delegated with the authority of the employer in that behalf; or

(5.) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal, points, locomotive engine, or train upon a railway,

the workman, or in case the injury results in death, the legal personal representatives of the workman, and any persons entitled in case of death, shall have the same right of compensation and remedies against the employer as if the workman had not been a workman of nor in the service of the employer, nor engaged in his work.

Exceptions to amendment of law.

**2.** A workman shall not be entitled under this act to any right of compensation or remedy against the employer in any of the following cases; that is to say,

(1.) Under sub-section one of section one, unless the defect therein mentioned arose from, or had not been discovered or remedied owing to the negligence of the employer, or of some person in the service of the employer, and entrusted by him with the duty of seeing that the ways, works, machinery, or plant were in proper condition.

(2.) Under sub-section four of section one, unless the injury resulted from some impropriety or defect in the rules, bye-laws, or instructions therein mentioned; provided that where a rule or bye-law has been approved or has been accepted as a proper rule or bye-law by one of her Majesty's principal secretaries of state, or by the Board of Trade or any other department of the government, under or by virtue of any act of parliament, it shall not be deemed for the purposes of this act to be an improper or defective rule or bye-law.

(3.) In any case where the workman knew of the defect or negligence which caused his injury, and failed within a reasonable time to give, or cause to be given, information thereof to the employer or some person superior to himself in the service of the employer, unless he was aware that the employer or such superior already knew of the said defect or negligence.

Limit of sum recoverable as compensation.

**3.** The amount of compensation recoverable under this act shall not exceed such sum as may be found to be equivalent to the estimated earnings, during the three years preceding the injury, of a person in the same grade employed during those years in the like employment and in the district in which the workman is employed at the time of the injury.

Limit of time for recovery of compensation.

**4.** An action for the recovery under this act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within six weeks, and the action is commenced within six months from the occurrence of the accident causing the injury, or, in case of death, within twelve months from the time of death: Provided always, that in case of death the want of such notice shall be no bar to the maintenance of such action if the judge shall be of opinion that there was reasonable excuse for such want of notice.

Money payable under penalty to be deducted from compensation under act.

**5.** There shall be deducted from any compensation awarded to any workman, or representatives of a workman, or persons claiming by, under, or through a workman in respect of any cause of action arising under this act, any penalty or part of a penalty which may have been paid in pursuance of any other act of parliament to such workman, representatives, or persons in respect of the same cause of action; and where an action has been brought under this act by any workman, or the representatives of any workman, or any persons claiming by, under, or through such workman, for

compensation in respect of any cause of action arising under this act, and payment has not previously been made of any penalty or part of a penalty under any other act of parliament in respect of the same cause of action, such workman, representatives, or person shall not be entitled thereafter to receive any penalty or part of a penalty under any other act of parliament in respect of the same cause of action.

6.—(1.) Every action for recovery of compensation under this act shall be brought in a county court, but may, upon the application of either plaintiff or defendant, be removed into a superior court in like manner and upon the same conditions as an action commenced in a county court may by law be removed. Trial of actions.

(2.) Upon the trial of any such action in a county court before the judge without a jury one or more assessors may be appointed for the purpose of ascertaining the amount of compensation.

(3.) For the purpose of regulating the conditions and mode of appointment and remuneration of such assessors, and all matters of procedure relating to their duties, and also for the purpose of consolidating any actions under this act in a county court, and otherwise preventing multiplicity of such actions, rules and regulations may be made, varied, and repealed from time to time in the same manner as rules and regulations for regulating the practice and procedure in other actions in county courts.

"County court" shall, with respect to Scotland, mean the "Sheriff's Court," and shall, with respect to Ireland, mean the "Civil Bill Court."

In Scotland any action under this act may be removed to the Court of Session at the instance of either party, in the manner provided by, and subject to the conditions prescribed by, section nine of the Sheriff Courts (Scotland) Act, 1877.

In Scotland the sheriff may conjoin actions arising out of the same occurrence or cause of action, though at the instance of different parties and in respect of different injuries. 40 & 41 Vict. c. 50.

7. Notice in respect of an injury under this act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which it was sustained, and shall be served on the employer, or, if there is more than one employer, upon one of such employers. Mode of serving notice of injury.

The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served.

The notice may also be served by post by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business; and, if served by post, shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of post; and, in proving the service of such notice, it shall be sufficient to prove that the notice was properly addressed and registered.

Where the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office, or, if there be more than one office, any one of the offices of such body.

A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein, unless the judge who tries the action arising from the injury mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy, and that the defect or inaccuracy was for the purpose of misleading.

8. For the purposes of this act, unless the context otherwise requires,— Definitions.

The expression "person who has superintendence entrusted to him"

means a person whose sole or principal duty is that of superintendence, and who is not ordinarily engaged in manual labour:

The expression "employer" includes a body of persons corporate or unincorporate:

The expression "workman" means a railway servant and any person to whom the Employers and Workmen Act, 1875, applies.

Commencement of Act.

**9.** This act shall not come into operation until the first day of January one thousand eight hundred and eighty-one, which date is in this act referred to as the commencement of this act.

Short title.

Duration.

**10.** This act may be cited as the Employers' Liability Act, 1880, and shall continue in force till the 31st day of December, 1887, and to the end of the then next session of Parliament, and no longer, unless Parliament shall otherwise determine, and all actions commenced under this act before that period shall be continued as if the said act had not expired (*t*).

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## 45 & 46 VICT. CAP. 74.

*An Act to amend the Post Office Acts [with respect to the Conveyance of Parcels.* [18th August, 1882.

WHEREAS the Postmaster-General, with the consent of the Treasury, has made an arrangement with the railway companies named in the first schedule to this act whereby the Postmaster-General will pay to the said railway companies and such other railway companies as become parties to the arrangement under this act the remuneration to railway companies for services rendered by them in relation to the conveyance of parcels, and the said railway companies, through the medium of the London Railway Clearing Committee, will apportion such remuneration among the different railway companies, and such remuneration will consist of the sums hereinafter mentioned:

And whereas the Treasury propose, on the representation of the Postmaster-General, to make regulations in pursuance of the acts relating to the post office with respect to the posting, forwarding, conveyance and delivery of parcels, and to provide that parcels of the weights mentioned in the second schedule to this act shall be carried at the rates in that schedule mentioned, and on different conditions from ordinary postal packets:

And whereas it is expedient to make the provisions hereinafter appearing respecting such parcels and for carrying into effect the said arrangement:

And whereas the bill for this act has, so far as the same affects the railway companies named in the first schedule to this act, been assented to by them:

Be it therefore enacted, by (&c.), as follows:

Short title.

**1.** This act may be cited as the Post Office (Parcels) Act, 1882.

Remuneration to railway companies for carriage of parcels.

**2.** In the event of any regulations being made by the Treasury in pursuance of the post office acts and providing for the conveyance of parcels by post on different conditions from ordinary postal packets, the following provisions shall, subject to the provisions of this act, have effect:

(*t*) The act was continued by the Expiring Laws Continuance Act, 1887, until the 31st December, 1888, but was not continued further by the general Expiring Laws Continuance Act, 1888, as a Government bill upon the subject was, at the time of the passing of that act, still before Parliament. This bill having been dropped in the autumn sitting, the act is specially continued until the 31st December, 1889, by 51 & 52 Vict. c. 58, p. 368, post.

(1.) The Postmaster-General shall from time to time pay to the railway companies parties to the arrangement under this act the amount hereinafter mentioned as the remuneration of all railway companies in respect of the conveyance of parcels by such companies, and the amount so paid (in this act referred to as the railway remuneration) shall be in substitution for any other remuneration in respect of the conveyance of such parcels, and every railway company shall render in respect of such parcels the services required by this act, and shall accept the said payment in full satisfaction and discharge for the said services.

(2.) The amount of the railway remuneration shall be eleven-twentieth parts of the gross receipts of the Postmaster-General from such of the said parcels as are conveyed by railway; Amount of remuneration.

Provided that if at any time in pursuance of regulations of the Treasury the weights of or rates of postage for parcels differ from those mentioned in the second schedule to this act, the railway companies parties to the arrangement under this act may, by notice under the hand of the secretary to the London Railway Clearing Committee, require a revision of the amount of the railway remuneration, and the amount as determined on such revision shall be substituted for the above-mentioned eleven-twentieth parts of the gross receipts, subject nevertheless, in the event of any further change in the weights of or rates of postage for parcels, to another revision on notice requiring the same given either by the railway companies or by the Postmaster-General, and so on from time to time.

(3.) In the case of a revision the amount of railway remuneration shall be a sum to be paid to the companies collectively in manner provided by this act, and if such amount is not determined by agreement between the Postmaster-General and the railway companies, parties to the arrangement under this act, the amount shall be referred to arbitration in manner provided by this act.

(4.) The provisions of this section (in this act referred to as the arrangement under this act) shall continue in force during a period of twenty-one years next after the said regulations come into operation, and thereafter until the expiration of twelve months' notice to determine the same given by the Postmaster-General on the one side, or by the railway companies on the other, either before or after the expiration of the said twenty-one years.

**3.** During the continuance of the arrangement under this act the railway companies shall render the following services:— Services to be rendered by railway companies.

(1.) Every railway company shall convey by any train by which passengers, goods, or parcels are conveyed all such parcels as may be tendered for conveyance by such train, whether such parcels be under the charge of a person appointed by the Postmaster-General or not, and notwithstanding that no notice has been given to the company with respect to the conveyance of such parcels: Conveyance of parcels by any train.

Provided that the conveyance of parcels by mail and express trains shall be limited so as not to affect prejudicially the convenient and punctual working of those trains.

(2.) Every railway company shall afford all reasonable facilities for the receipt and delivery of the sacks, hampers, boxes, or other receptacles containing the parcels at any of their stations without requiring them to be booked or interposing any other delay, and shall perform the service of transferring such sacks, hampers, boxes, or other receptacles to and from the vehicles of Facilities for receipt and delivery of boxes, &c.

the Postmaster-General at the outwards and inwards railway stations.

Conveyance of servants of Postmaster-General

(3.) Every railway company shall convey, free of charge, but in a manner convenient to them but not interfering with his custody of the parcels, any servant of the Postmaster-General appointed to take charge of the parcels during their conveyance by railway; but if such person during the conveyance receives any injury, and the company pay any sum for damages or costs in respect of such injury, or on account of death arising from such injury, the Postmaster-General shall pay to the company one half of such sum, but if the sum is paid by the company under agreement or by way of compromise of any claim, the Postmaster-General shall not be liable to pay one half unless his written consent has been previously given to the payment of such sum.

Assistance to servant of Postmaster General.

(4.) If the parcels are in charge of a person appointed by the Postmaster-General every railway company shall permit such person, if he thinks fit, by himself or his assistants, to deliver and receive the parcels at any station at which the train by which the sacks, hampers, boxes, or other receptacles containing the parcels are intended to be or are conveyed is appointed to stop and during the time limited for such stoppage, but nevertheless shall, if required by such person, assist him in transferring the sacks, hampers, boxes, or other receptacles to and from the vehicles of the Postmaster-General.

Special parcels van.

(5.) Every railway company shall, if the Postmaster-General so require, provide in every train, not being an express or mail train, a special parcels van or other separate accommodation for sorting parcels carried by such train, and the Postmaster-General shall pay to such company in respect of the said van or accommodation such amount as may be agreed on, or, in case of difference, be determined by arbitration.

Calculation of gross receipts.

**4.** The gross receipts of the Postmaster-General from parcels conveyed by railway for the purposes of this act—

(*a*) shall be calculated without any deduction whether for the cost of stamps, or otherwise; and

(*b*) shall not include such extra charges (over and above the usual rate of postage) as may be from time to time fixed by the said regulations; and

(*c*) shall include the rates of postage which would be chargeable for Government parcels, if they were sent by private persons, notwithstanding that the same may be conveyed without being stamped; and

(*d*) as regards foreign parcels shall be taken to be the same amount as would have been the gross receipts of the Postmaster-General in respect of such parcels if they had been inland parcels of the same weight.

Payments to Clearing Committee.

**5.** (1.) The Postmaster-General shall from time to time, and at least once in every three months, and, within seven weeks after the expiration of the period to which such accounts respectively relate, render to the railway companies parties to the arrangement under this act, through the medium of the London Railway Clearing Committee, such accounts as may be reasonably necessary to show the sums due to railway companies in respect of railway remuneration under this act, and shall keep all such accounts as are reasonably necessary for that purpose, and shall afford reasonable inspection thereof to the secretary to the London Railway Clearing Committee on behalf of the railway companies, and shall as soon as may be,

and at least within one week after the delivery of the account, pay to the railway companies through the medium of the said committee the amount appearing from the said accounts to be so due, and may pay the same out of the moneys for the time being to the credit of the Postmaster-General at the Bank of England; but such payments shall be charged in the accounts of the post office to the gross receipts in respect of parcels.

(2.) The receipt of the secretary to the London Railway Clearing Committee shall be a full discharge for all sums paid by the Postmaster-General in respect of railway remuneration, and the Postmaster-General shall not be required to take any part in or otherwise be responsible for the division amongst the railway companies of the amount so paid.

Apportionment of amount received by committee.

**6.** (1.) The railway companies parties to the arrangement under this act shall from time to time apportion the railway remuneration received from the Postmaster-General among all the railway companies in accordance with the provisions set forth in the third schedule to this act, which provisions shall have effect as if they were enacted in the body of this act.

(2.) For the purpose of facilitating such apportionment the Postmaster-General shall for one week in each half year keep, and within twenty-eight days thereafter deliver to the secretary to the London Railway Clearing Committee, records of the number of the parcels conveyed by railway and forwarded from the different post towns in the United Kingdom during the week for which such account shall be so kept.

Conditions as to conveyance of parcels.

**7.** During the continuance of the arrangement under this act the following provisions shall have effect with reference to the parcels conveyed for the Postmaster-General by railway companies:

Distribution of parcels amongst the railways.

(1.) He shall direct his officers from time to time to distribute, so far as practicable, the parcels between the different railways, so that the expense to any railway company of carrying the parcels may, with due regard to the public convenience, be proportionate to that company's share of the receipts divisible among the railway companies under this act:

Delivery in reasonable time.

(2.) He shall direct his officers to secure so far as practicable the delivery of the parcels at the outwards railway station a reasonable time before the departure of the trains, and to be so far as practicable in attendance at the inwards station to meet on arrival any train by which parcels are expected to arrive:

Boxes, &c.

(3.) The parcels shall be placed by the officers of the Postmaster-General for each separate railway station in sacks, hampers, boxes, or other receptacles, and in such reasonably convenient manner for delivery to and for transfer and conveyance by the railway companies as the Postmaster-General may from time to time direct.

Explosives need not be carried.

(4.) The railway companies shall not be required to carry, under this act, any such explosive or dangerous article as they, independently of this act, for the time being refuse to carry as a parcel by passenger trains.

Exemption of companies from liability.

(5.) The parcels shall, with regard to security and compensation for loss or otherwise, be treated as letters sent by post, and no company shall incur or be subject to any liability in respect of the conveyance or loss of or damage to any of the parcels, but the railway companies shall take all reasonable care for the security of the parcels while under their charge.

Arbitration under Act.

**8.** Where during the continuance of the arrangement under this act the amount of railway remuneration or other matter of difference between the Postmaster-General and the railway companies parties to the said arrangement or any matter of difference between the Postmaster-General and any

single railway company or any company or person or persons owning any steam vessel in respect of any services under this act, is in pursuance of this act referred to arbitration, the arbitration shall be in accordance with the Railway Companies Arbitration Act, 1859 (x), and the acts amending the same; and where it is between the Postmaster-General and the companies parties to the arrangement under this act shall be conducted in like manner as if the said companies were one party to the arbitration on the one side and the Postmaster-General were a company party to the arbitration on the other side, and if each side appoints an arbitrator, one arbitrator only shall be appointed on behalf of the said companies under the hand of the secretary to the London Railway Clearing Committee.

What companies parties to the arrangement.

**9.** (1.) The following railway companies shall be deemed to be railway companies parties to the arrangement under this act:—

(*a*) the railway companies named in the first schedule to this act; and

(*b*) every railway company who in pursuance of this act elects to become a party to the arrangement under this act; and

(*c*) as regards any railway authorized after the passing of this act, the railway company working such railway.

Power for other companies to come into arrangement

(2.) Any railway company in the United Kingdom not being one of the parties to the arrangement under this act may serve a notice in writing and under seal on the Postmaster-General, and on the secretary to the London Railway Clearing Committee, expressing the desire of such company to become one of the parties to the arrangement under this act, and upon the service of such notice the company shall be deemed to have elected to become one of the parties to the arrangement under this act.

Services by companies not parties to the arrangement.

(3.) Any railway company in the United Kingdom not being one of the parties to the arrangement under this act shall, nevertheless, when required by the Postmaster-General, render the services with respect to the conveyance of parcels which are required by this act to be rendered by railway companies, and shall be entitled as remuneration for such services to receive from the railway companies parties to the arrangement under this act the proper proportion of the railway remuneration, and if a difference arises with respect to the amount of such remuneration and is not determined by agreement between such company and the railway companies parties to the arrangement under this act, acting through the medium of the London Railway Clearing Committee, the difference shall be referred to arbitration; and the award on such arbitration shall determine the difference and the amount due to such company in respect of the said services, and such amount shall be paid out of the railway remuneration by the railway companies parties to the arrangement under this act:

Provided that where a railway company is not one of the parties to the arrangement under this act, nothing in this section shall authorize the Postmaster-General to require such company to carry parcels on any railway worked by such company on which the company does not carry any parcels traffic within the meaning of the third schedule to this act.

Conduct of an arbitration.

(4.) An arbitration under this section shall be conducted in accordance with the Railway Companies Arbitration Act, 1859 (x), and any act amending the same, in like manner as if the companies parties to the arrangement under this act were one party to the arbitration, but the arbitrator shall, on application under the hand of the secretary to the London Railway Clearing Committee, be appointed by the Lord Chief Justice of England, but if no such application is made and each side appoints an arbitrator, one arbitrator only shall be appointed on behalf of

(x) 22 & 23 Vict. c. 59, p. 182, ante.

the companies parties to the arrangement under this act under the hand of the secretary to the London Railway Clearing Committee.

Application of law upon determination of arrangement under this Act.

**10.** Upon the determination of the arrangement under this act the enactments then in force in relation to the conveyance of other postal packets by railway, and the remuneration to be paid for the services of the railway companies as regards such conveyance, and the determination of such remuneration (in the absence of agreement) by arbitration, shall apply in the case of parcels in like manner as in the case of other postal packets.

Saving of rights of companies to carry parcels on their own account.

**11.** Nothing in this act shall in any way prejudice or affect on the one hand the rights or powers of any railway company, either in the conveyance of parcels for the public on the company's own account, or the charges or conditions to be made or imposed in respect of such conveyance, or on the other hand the right of the Postmaster-General under his powers with respect to the conveyance of mails by railway, and every company shall be entitled to be paid for all services in respect of the conveyance of mails other than parcels wholly irrespective of and without reference to the provisions of this act.

Mode of acting by Postmaster-General and Clearing Committee.

**12.** (1.) Every agreement under this act by the Postmaster-General shall, in accordance with the post office acts, be made with the consent of the Treasury.

(2.) Any notice or document required for the purposes of this act to be served on the Postmaster-General may be served by the delivery thereof to the Postmaster-General or to any of the secretaries or assistant secretaries to the post office, or by sending the same by post addressed to the Postmaster-General at the General Post Office.

(3.) For any purpose connected with railway remuneration in pursuance of the arrangement under this act, any notice or document to be given or served to, on, or by the railway companies parties to the arrangement under this act shall be given or served to, on, or by the secretary to the London Railway Clearing Committee, and the railway companies parties to the arrangement under this act may collectively sue and be sued in the name of the said secretary; and during the continuance of the arrangement under this act, the Postmaster-General in dealing (for the purposes of railway remuneration) with the railway companies parties to the arrangement under this act may deal only with such companies collectively through the medium of the London Railway Clearing Committee, and shall not be required to deal, as regards railway remuneration, with any of such companies individually.

(4.) All accounts to be rendered or notices given to or served on the railway companies with reference to railway remuneration shall be rendered, given, or served by sending the same through the post to, or leaving the same at, the office of the London Railway Clearing Committee, addressed to the secretary to such committee.

Application of Act to steam vessels.

**13.** Where any railway company own or work any steam vessel, the provisions contained in this act with respect to the conveyance of parcels by railway shall, so far as they are applicable, extend to the conveyance of parcels by such steam vessels, and the expressions in this act shall be construed accordingly; and expressions referring to railway stations shall refer to places where steam vessels depart, call, or arrive:

Provided that where any such steam vessel carries on communication between a port in the United Kingdom, and any place out of the United Kingdom, the remuneration for services rendered by such steam vessel in respect of the conveyance of parcels shall not be included in the railway remuneration, but shall be such as may be determined by agreement between the Postmaster-General and the company owning or working the steam

vessel, or in case of difference be determined by arbitration, and the amount so determined shall be paid direct to the company, and the parcels conveyed by such steam vessel shall not, in respect of that conveyance, be deemed to be parcels conveyed by railway.

Where any steam vessel carries on regular communication between a port in the United Kingdom and any other port or place within the United Kingdom, or is a home-trade ship as defined by the Merchant Shipping Act, 1854, and such steam vessel is neither owned nor worked by any railway company, the company or person or persons by whom such steam vessel is owned or worked shall, from and after the passing of this act, be bound to convey parcels; and the remuneration due for the services rendered by such steam vessel, in respect of the conveyance of parcels, shall be determined by agreement between the Postmaster-General and the company or person or persons owning or working such steam vessel, or in case of difference such remuneration shall be determined by arbitration, and the amount so determined shall be paid direct to such company or person or persons, and the parcels conveyed by such steam vessel shall not in respect of that conveyance be deemed to be parcels conveyed by railway.

**Application of Customs Acts to foreign parcels.**

**14.** (1.) Subject to any exceptions and modifications made by regulations under this section, the provisions of the acts for the time being in force relating to the customs (in this act referred to as customs enactments) shall apply to goods contained in foreign parcels, in like manner, so far as is consistent with the tenor thereof, as they apply to any other goods; and persons may be punished for offences against the said enactments, and goods may be examined, seized and forfeited, and the officers examining and seizing them shall be protected, and legal proceedings in relation to the matters aforesaid may be taken, accordingly under the said enactments.

(2.) The Treasury, on the recommendation of the commissioners of customs and the Postmaster-General, may from time to time make, and, when made, revoke and vary, regulations for the purpose of modifying or excepting the application of any of the customs enactments to foreign parcels, and for the purpose of securing, in the case of such parcels, the observance of the customs enactments, and for enabling the officers of the post office to perform, for the purpose of those enactments and otherwise, all or any of the duties of the importer and exporter, and for carrying into effect any treaty, convention, or arrangement with any foreign state or the government of any British possession with reference to foreign parcels, and for punishing any contravention of the customs enactments or of the regulations under this section.

(3.) The Postmaster-General shall have the same right of recovering any sums paid, in pursuance of the customs enactments or otherwise under the said regulations, in respect of any foreign parcel, as he would have if the sum so paid were a rate of postage.

(4.) A contravention of the regulations in force under this section shall be deemed to be a contravention of the customs enactments, and shall involve accordingly the like punishment of persons guilty thereof, and the like forfeiture of goods.

**Application of Act to Channel Islands and Isle of Man.**

**15.** This act shall apply to the Channel Islands and Isle of Man as if they were part of the United Kingdom, subject to the following provisions:—

(1.) Save as provided by regulations made under this section, it shall not be lawful, by means of any inland parcel, to export or remove from the Channel Islands or Isle of Man, or import or bring into the United Kingdom, or to export or remove from the United Kingdom or import or bring into the Channel Islands or Isle of Man, any goods on the exportation, importation, removal, or

bringing in of which there is for the time being any prohibition or restriction, or any customs duty payable.

(2.) Regulations under this section may be made for permitting and regulating the exportation, importation, removal, or bringing in of any such goods as above mentioned, to the extent provided by the regulations.

(3.) Subject to any exceptions or modifications made by the regulations under this section, the provisions of this act with respect to the application of the customs enactments to foreign parcels shall apply in like manner as if the inland parcels sent between the United Kingdom, Channel Islands, and the Isle of Man were foreign parcels, and for the purpose of such application any goods for the time being prohibited by this section from being imported, exported, brought in, or removed shall be deemed to be so prohibited by the said customs enactments.

(4.) The Treasury may from time to time, on the recommendation of the Commissioners of Customs and the Postmaster-General, make, and, when made, revoke and vary, regulations for carrying into effect this section.

(5.) All laws of those islands punishing offences committed in relation to post letters or post letter bags shall apply as if parcels were post letters, and sacks, hampers, boxes, and other receptacles containing parcels were post letter bags.

Application of Post Office Acts.

**16.** This act shall be deemed to be a post office act within the meaning of the Post Office (Offences) Act, 1837 (*y*), and subject to the provisions of this act, the post office acts shall apply to parcels within the meaning of this act in like manner as they apply to other postal packets.

Definitions.

**17.** In this act, unless the context otherwise requires—

The expression "British possession" does not include the Channel Islands or the Isle of Man, but includes all other territories and places forming part of her Majesty's dominions.

"Parcels."

The expression "parcel" means all such postal packets as by the regulations of the Treasury made in pursuance of the post office acts are defined to be parcels:

The expression "inland parcels" means parcels posted within the United Kingdom and addressed to some place in the United Kingdom:

The expression "foreign parcels" means parcels either posted in the United Kingdom and sent to a place out of the United Kingdom, or posted in a place out of the United Kingdom and sent to a place in the United Kingdom, or in transit through the United Kingdom to a place out of the United Kingdom:

The expression "railway company" means any person or body of persons corporate or unincorporate working a railway:

The expression "Treasury" means the Commissioners of her Majesty's Treasury:

The expression "London Railway Clearing Committee" means the clearing committee mentioned in the Railway Clearing Act, 1850 (*z*).

(*y*) 7 W. 4 & 1 Vict. c. 36. See this act, Chitty's Statutes, vol. ii. tit. "Criminal Law (Offences as to Property)."

(*z*) 13 & 14 Vict. c. xxxiii. p. 150, ante.

## FIRST SCHEDULE.

### Railway Companies Parties to Arrangement (a).

Aylesbury and Buckingham.
Ballycastle.
Ballymena and Larne.
Belfast and County Down.
Belfast and Northern Counties.
Belfast, Holywood, and Bangor.
Bishop's Castle
Brecon and Merthyr Tydvil Junction.
Bristol Port Railway and Pier.
Caledonian.
Cambrian.
Central Wales and Carmarthen Junction.
Cheshire Lines Committee.
City of Glasgow Union
Cleator and Workington Junction.
Cockermouth, Keswick, and Penrith.
Colne Valley and Halstead.
Cork and Bandon.
Cork, Blackrock, and Passage.
Cornwall, the lessees of.
Dublin, Wicklow, and Wexford.
East and West Junction.
Fleetwood, Preston, and West Riding.
Finn Valley.
Furness.
Garstang and Knotend.
Glasgow and South-Western.
Great Eastern.
Great North of Scotland.
Great Northern.
Great Northern, Ireland.
Great Southern and Western of Ireland.
Great Western.
Gwendraeth Valleys.
Highland.
Lancashire and Yorkshire.
Liskeard and Caradon.
London and North-Western.
London and South-Western.
London, Brighton, and South Coast.
London, Chatham, and Dover.
London, Tilbury, and Southend.
Londonderry and Lough Swilly.
Lynn and Fakenham.
Macclesfield Committee.
Manchester and Milford.
Manchester, Sheffield, and Lincolnshire.
Manchester, South Junction, and Altrincham
Maryport and Carlisle.
Midland.
Midland Great Western of Ireland.
Mid Wales
Neath and Brecon.
Newry, Warrenpoint, and Rostrevor.
Northampton and Banbury Junction.
North British.
North-Eastern.
North London.
North Staffordshire.
Oldham, Ashton-under-Lyne, and Guide Bridge Junction.
Pembroke and Tenby.
Portpatrick.
Preston and Wyre, the lessees of.
Rhymney.
Severn and Wye and Severn Bridge.
Sheffield and Midland Railway Company's Committee.
Sligo, Leitrim, and Northern Counties
South-Eastern.
Southwold.
Swindon, Marlborough, and Andover.
Taff Vale.
Tendring Hundred.
Waterford and Central Ireland.
Waterford and Limerick.
Waterford and Tramore.
Waterford, Dungarvon, and Lismore.
Watlington and Prince's Risborough.
West Lancashire.
West Riding and Grimsby.
Wigtownshire.
Wrexham, Mold, and Connah's Quay.

## SECOND SCHEDULE.

### Weights and Rates of Parcels.

| For an Inland Parcel of a Weight. | The rate of Postage shall be |
|---|---|
| Not exceeding 1 lb. .................... | 3*d*. |
| Exceeding 1 lb. and not exceeding 3 lbs. .................... | 6*d*. |
| Exceeding 3 lbs. and not exceeding 5 lbs. .................... | 9*d*. |
| Exceeding 5 lbs. and not exceeding 7 lbs. .................... | 1*s*. |

(*a*) The eighty-two companies parties to this arrangement comprise the majority both in number and mileage of the railway companies of the United Kingdom.

## THIRD SCHEDULE

### APPORTIONMENT AMONG THE RAILWAY COMPANIES.

1. All sums paid by the Postmaster-General under this Act to the railway companies parties to the arrangements under this Act shall be apportioned amongst the railway companies entitled to share therein by the London Railway Clearing Committee half-yearly up to the thirtieth day of June and the thirty-first day of December in each year, or to such other half-yearly days as the parcels accounts between the companies may for the time being be made up by the London Railway Clearing Committee.

2 The share of each railway company shall bear the same ratio to the whole sum divisible as that company's gross receipts from local and through parcels traffic for each half-yearly period bear to the gross receipts from local and through parcels traffic of all the companies for the same period · Provided that where upon an arbitration with any company not a party to the arrangement under this Act any sum is awarded to be paid to such company, such sum shall be so paid in lieu of the share ascertained as aforesaid.

Each company shall render to the London Railway Clearing Committee the necessary returns of their parcels traffic certified by their accountant, such returns to be subject to audit and inspection of books by the London Railway Clearing Committee.

3. If at any time after the expiration of three years from the passing of this Act, or if at any time in pursuance of regulations of the Treasury the weights or rates of postage for parcels differ from those mentioned in the Second Schedule to this Act, any one or more of the companies consider that the apportionment of the receipts from parcels traffic above provided by this Act (hereinafter called "the prescribed apportionment") is inequitable, such company or companies (without prejudice to any right conferred by this Act on a company not represented by the committee) may forward to the London Railway Clearing Committee a statement in writing of the grounds of objection to the prescribed apportionment, and thereupon the following provisions shall have effect :

(*a.*) The secretary to the London Railway Clearing Committee shall convene a special meeting of the general managers of the railway companies parties to the arrangement under this Act (hereinafter called "the conference") for the purpose of taking such statement into consideration, and shall give not less than fourteen days' notice of such special meeting.

(*b.*) The conference shall at such special meeting take the said statement into consideration and determine by a majority of its members present at such meeting whether a primâ facie case has been shown for altering the prescribed apportionment.

(*c.*) If the conference determine that a primâ facie case has not been shown for altering the prescribed apportionment no further proceedings shall be taken, and the prescribed apportionment shall continue in force until further complaint be made under this article.

(*d.*) If the conference determine that a primâ facie case has been shown for altering the prescribed apportionment, it shall proceed either at such meeting or any adjournments thereof, or at any other meeting specially convened for the purpose as hereinbefore provided, to consider a fair and equitable revision of the prescribed apportionment.

(*e.*) The conference may by a majority of its members present at any such meeting and representing companies whose aggregate share capital is for the time being not less than three fourths of the aggregate share capital represented at such meeting determine upon a revision of the prescribed apportionment

(*f.*) If the conference, for the space of three months after they have decided that a primâ facie case for revision has been shown, fail to determine by the requisite majority upon a revision of the prescribed apportionment, then the question of revising the prescribed apportionment shall be referred to an arbitrator appointed under this schedule, who shall have power to determine whether any, and if any, what revision of the prescribed apportionment is required to remedy any inequality or injustice which may in his opinion be established upon due inquiry before him.

(*g.*) The conference or the arbitrator shall, in considering a revision of the prescribed apportionment, have power to deal with any complaint of inequality or injustice which may be submitted to them or him by any of the companies, and may adopt in revising the prescribed apportionment such basis of division or such data as to them or him shall seem just.

(*h.*) Any decision of the conference or of the arbitrator shall be final and conclusive upon the companies, and shall, unless any further alteration is made in the weights and rates of postage of the parcels in pursuance of regulations of the Treasury, continue in force for the period of three years and thereafter until any further complaint shall be made under this enactment.

(*i*) The selection by the Postmaster-General of any route or routes for the transmission of parcels in preference to any competing route or routes shall in no case be a reason for revising the prescribed apportionment.

4. Parcels traffic for the purposes of the apportionment shall (unless and till otherwise determined by the conference, who shall have power to add to or take from the following list of excepted articles), include all such traffic as according to the practice for the time being of the London Railway Clearing Committee is included in that expression, except—

Mails, other than parcels; fish, meat, and poultry for markets; milk; carriages; cattle, horses, dogs, and other animals; corpses; and specie.

5. The conference shall have power from time to time to make, and, if necessary, to revoke and alter all such rules and regulations as may be necessary for the purpose of giving full effect to this Act with respect to—

(*a.*) The forms to be used by the companies in dealing with parcels traffic as above defined;

(*b.*) The returns to be made by the companies for the purposes of this Act;

(*c.*) The verification of any such returns; and

(*d.*) Any matters of detail necessary or proper for carrying this schedule into effect;

and all such rules and regulations shall be binding on the companies.

6. The arbitrator to determine any question between the companies under the provisions of this schedule shall be appointed when such question arises by the Lord Chief Justice of England, on the application of the London Railway Clearing Committee, and the Railway Companies Arbitration Act, 1859, shall apply to any such arbitration.

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## 46 & 47 VICT. CAP. 34.

*An Act to amend the Law relating to Railway Passenger Duty, and to amend and consolidate the Law relating to the conveyance of the Queen's Forces by Railway.*

[20th August, 1883.

Be it enacted as follows:

Short title.

**1.** This act may be cited as the Cheap Trains Act, 1883.

Abolition of duty on fares not exceeding 1*d.* per mile.

[See vol. I., Ch. XII.]

**2.** After the commencement of this act the duties now payable in respect of passengers conveyed for hire on a railway shall, subject to the provisions of this act, be varied as follows:

(1.) Fares not exceeding the rate of one penny a mile shall be exempt from duty; but fares for return or periodical tickets shall be exempt from duty only where the ordinary fare for the single journey does not exceed that rate:

2 per cent. on 1*d.* per mile fares in urban district.

(2.) Duty shall be payable at the rate of two per cent. on fares exceeding the rate of one penny a mile for conveyance between railway stations within one urban district certified so to be in manner provided in this section.

Certifying of "Urban District."

(3.) Where the Board of Trade are satisfied that any two or more railway stations are within an area which has a continuous urban as distinguished from a rural or suburban character, and contains a population of not less than one hundred thousand inhabitants, the Board of Trade may certify that those stations are within one urban district for the purposes of this act. The Board of Trade may from time to time and at any time rescind or vary any certificate given by them under this section.

Provision for proper accommodation at fares not more than 1*d.* per mile.

**3.** (1.) If at any time the Board of Trade have reason to believe—

(*a.*) that upon any railway or part of a railway, or upon any line or system of railways, whether belonging to one company or to two or more companies, which forms a continuous means of communication, a due and sufficient proportion of the accommodation pro-

vided by such company or companies is not provided for passengers at fares not exceeding the rate of one penny a mile; or

(*b*) that upon any railway carrying passengers proper and sufficient workmen's trains are not provided for workmen going to and returning from their work at such fares and at such times between six o'clock in the evening and eight o'clock in the morning as appear to the Board of Trade to be reasonable, Workmen's trains.

then and in either case the Board of Trade may make such inquiry as they think necessary, or may, if required by the company or any of the companies concerned, refer the matter for the decision of the Railway Commissioners, who shall have the same power therein as if it had been referred to their decision in pursuance of the Regulation of Railways Act, 1873.

(2.) If on an inquiry under this act it is proved to the satisfaction of the Board of Trade or the Railway Commissioners, as the case may be, that such proper and sufficient accommodation or workmen's trains as aforesaid are not provided by any railway company, the Board of Trade or the Railway Commissioners, as the case may be, may order the company to provide such accommodation or workmen's trains at such fares as, having regard to the circumstances, may appear to the said Board or the Commissioners to be reasonable.

(3.) If any company on whom an order is made under this act to provide proper and sufficient accommodation or workman's trains refuse, or, at any time after the expiration of one month from the making thereof, neglect to comply with the order, the Board of Trade shall issue a certificate to that effect to the Commissioners of Inland Revenue, and after the date of such certificate the company shall lose the benefit of this act and be liable to pay in respect of the fares received after such date the same amount of passenger duty as would be payable if the passenger duty had not been varied as provided by this act, and shall continue so liable in respect of all fares received up to the date at which the Board of Trade certify that the company has complied with the said order. Where two or more companies are concerned, the certificate shall state whether both or all, or one or more, and which of them is in default.

(4.) A company on whom an order is made by the Board of Trade under this section may within six months after the making of the order appeal to the Railway Commissioners, who shall have the same power in the matter as if it had been originally referred to their decision.

(5.) The Board of Trade or the Railway Commissioners, as the case may be, may rescind or vary any order made by them under this section.

Provision as to special mileage and exceptional charges.

**4.** (1.) Where any act of Parliament allows a number of miles greater than the actual number of miles to be reckoned for the purpose of calculating the fares on any part of a railway, the mileage so allowed shall be deemed for the purposes of this act to be the mileage of that part of the railway.

(2.) Where any act of Parliament allows special or exceptional charges upon any part of a railway, that part shall for the purpose of calculating fares under this act be deemed to be a separate railway.

Proviso as to fractions of miles.

**5.** For the purposes of this act fares shall not be deemed to exceed the rate of one penny a mile which do not exceed one penny for a single journey of any distance less than a mile, or, where the distance travelled, being more than one mile, is any number of complete half-miles and a fraction not less than a quarter of a mile, do not exceed one half-penny for every half-mile and one halfpenny for the fraction; but for a child between three and twelve years of age the fare shall not exceed half an adult's fare, and children under three years of age shall be conveyed free of charge: Provided that a railway company shall not be bound to charge less than one penny to any person over three years of age for any single journey.

Any charge or fare which by any local and personal act relating to any railway is declared to be a charge or fare consistent with the provisions of the enactments relating to passenger duty which are repealed by this act shall be deemed for the purposes of this act to be a fare not exceeding the rate of one penny a mile.

Conveyance of the Queen's forces and police at reduced rates.

**6.** (1.) For the purpose of moving by railway on any occasion of the public service—

(*a*) any of the officers or men in or belonging to her Majesty's navy, or royal naval volunteers, and any other officers or men under the command or government of the admiralty; and

44 & 45 Vict. c. 58.

(*b*) any of the officers or soldiers in her Majesty's regular reserve or auxiliary forces (within the meaning of the Army Act, 1881, or any act amending the same) for the time being subject to military law; and

(*c*) any officers or men of any police force;

(all and any of which officers, soldiers, and men are in this act called "the forces");

every railway company shall, on the production of a route duly signed for the conveyance of the forces, provide conveyance for them and their personal luggage, and also for any public baggage, stores, arms, ammunition, and other necessaries and things, whether actually accompanying the forces or not, at all usual times at which passengers are conveyed by the company, on such terms as may be agreed on between the railway company and the Secretary of State, Admiralty, or police authority, and subject to or in default of agreement on the following terms:

Carriages.

(i.) The passenger carriages provided shall be of such classes in use on the railway, and in such proportions as specified in the route, all carriages being protected from the weather and having proper accommodation:

Fares.

(ii.) The fares shall not exceed the following proportions of the fares charged to private passengers for the single journey by ordinary train in the respective classes of carriages specified in the route, that is to say, if the number of persons conveyed is less than one hundred and fifty, three fourths; and if the number is one hundred and fifty or more, then for the first one hundred and fifty, three fourths, as for four officers and one hundred and forty-six soldiers or other persons; and for the numbers in excess of the said one hundred and fifty, one half:

Families.

(iii.) This section shall apply to such wives, widows, and children of members of the forces as are entitled to be conveyed at the public expense, in like manner as if they were part of the forces, but children less than three years old shall be conveyed free of charge, and the fare for a child more than three and less than twelve years old shall be half the fare payable under this section for an adult:

Luggage.

(iv.) One hundredweight of personal luggage shall be conveyed by the railway company free of charge for every one conveyed under this section who is required by the route to be conveyed first-class, and half a hundredweight for every other person conveyed; and any excess of weight shall be conveyed at not more than two thirds of the rate charged to the public for excess luggage:

Public baggage, &c.

(v.) The said public baggage, stores, arms, ammunition, necessaries, and things shall be carried at rates not exceeding twopence per ton per mile, the assistance of the forces to be given when available in loading and unloading the same:

(vi.) Provided that the company shall not be bound under this section to carry gunpowder or other explosive or combustible matters except on terms agreed upon between the company and the Admiralty or one of her Majesty's principal secretaries of state, as the case may be. Explosives.

(2.) For the purposes of this section a route duly signed shall be deemed to be a route issued and signed in accordance with section one hundred and three of the Army Act, 1881, or an order signed by a person authorised in this behalf by one of her Majesty's principal secretaries of state, or a route or order signed by a person authorised in this behalf by the Admiralty, or, as regards the police, a route or order signed by a person authorised in this behalf by the police authority. "Route duly signed"

(3.) Fares payable under this section shall be exempt from passenger duty. No duty.

(4.) Where a company has by refusal or neglect to comply with an order of the Board of Trade or the Railway Commissioners lost the benefit of this act, that company shall, until its compliance is certified as in this act provided, be exempt from the provisions of this section, but shall be bound to convey all such persons and things as mentioned in this section on the same terms as if this act had not been passed.

**7.** The act of the fifth and sixth years of her Majesty's reign, chapter seventy-nine, intituled "An act to repeal the duties payable on stage carriages and on passengers conveyed upon railways and certain other stamp duties in Great Britain, and to grant other duties in lieu thereof, and also to amend the laws relating to the stamp duties," is hereby amended in the following respects:— Verification of accounts by certificate.

(*a.*) In lieu of the affidavit required by section four of the said act in verification of accounts rendered for the purposes of railway passenger duty, every such account shall be certified to be a full and true account under the hand of the person by whom the affidavit would have been made if this act had not been passed.

(*b.*) The commissioners of Inland Revenue may, at their discretion, dispense with the security by bond required by section seven of the said act. Security by bond may be dispensed with.

**8.** In this act, unless a contrary intention appears from the context— Definitions.

The term "fare" includes all sums received or charged for the hire, fare, or conveyance of passengers upon or along any railway:

The term "railway company" includes any person being the owner or lessee of or working any railway in the United Kingdom constructed or carried on under the powers of any act of Parliament:

The term "the Admiralty" means the Lord High Admiral of the United Kingdom for the time being, or the commissioners for the time being for executing the office of Lord High Admiral:

The term "police force" means the police force of the metropolitan police district or any county, borough, or place maintaining a separate police force:

The term "police authority" means the Secretary of State, quarter sessions, watch committee, police committee, police commissioners, or other authority having the management of a police force.

Anything which the Board of Trade is by this act empowered or required to do may be done by writing under the hand of the president or secretary or one of the assistant secretaries of the Board.

**9.** This act shall come into operation on the first day of October one thousand eight hundred and eighty-three, which day is in this act referred to as the commencement of this act. Commencement of Act.

Repeal.

**10.** Without prejudice to anything done or suffered, or any right acquired or liability incurred before the commencement of this act, the acts specified in the schedule to this act are hereby repealed, as from the commencement of this act, to the extent specified in the third column of the schedule, except so far as such acts apply to Ireland, and except as respecting the conveyance of forces by companies who lose the benefit of this act.

Extent of Act.

**11.** This act shall not extend to Ireland.

SCHEDULE.

| Session and Chapter. | Title. | Extent of Repeal. |
|---|---|---|
| 5 & 6 Vict. c. 55. | An Act for the better regulation of railways and for the conveyance of troops. | Section twenty. |
| 7 & 8 Vict, c. 85. | An Act to attach certain conditions to the construction of future railways authorised or to be authorised by any Act of the present or succeeding sessions of Parliament; and for other purposes in relation to railways. | Sections six, seven, eight, nine, ten, and twelve. |
| 16 & 17 Vict. c. 69. | An Act to make better provision concerning the entry and service of seamen, and otherwise to amend the laws concerning her Majesty's Navy. | Section eighteen. |
| 21 & 22 Vict. c. 75. | An Act to amend the law relating to cheap trains, and to restrain the exercise of certain powers by canal companies being also railway companies. | Sections one and two. |
| 26 & 27 Vict. c. 33. | An Act for granting to her Majesty certain duties of inland revenue; and to amend the laws relating to the inland revenue. | Section fourteen. |

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## 47 & 48 VICT. CAP. 62.

*An Act to amend the Law relating to the Customs and Inland Revenue, &c.* [14th August, 1884.

Tobacco licences for sale of tobacco in railway carriages.

**12.**—(1.) It shall be lawful for any railway company (including in such term any person or persons who is or are proprietor or proprietors of a railway or of carriages used for the conveyance of passengers upon a railway), to make application to the commissioners of inland revenue for the grant of a licence or licences for the dealing in and sale of tobacco and snuff by any means personal, mechanical or otherwise in any railway carriage of which such company are the proprietors (*b*).

(2.) Such application shall be made upon a form to be provided by the commissioners, and containing such particulars as they may prescribe.

(*b*) As to smoking carriages, see s. 20 of the Regulation of Railways Act, 1868, ante.

(3.) The licence shall be granted by the commissioner upon payment in respect of each carriage of the excise duty of five shillings and threepence, and shall expire on the 5th day of July after the date thereof. Duty.

(4.) All the enactments relating to the dealing in and sale of tobacco and snuff and excise licences, and every carriage in respect of which a licence is granted shall be deemed to be "premises" of a dealer in and seller of tobacco within the meaning of the enactments relating to the dealing in and sale of tobacco or snuff.

(5.) If any railway company shall deal in or sell tobacco or snuff to be dealt in or sold in any railway carriage without having in force a licence authorizing the company so to do, such company shall incur a fine of fifty pounds, and if in any proceedings for the recovery of such fine any question shall arise as to the proprietorship of any railway carriage, the proof of proprietorship shall lie upon the defendant.

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## 51 & 52 VICT. CAP. 25.

*An Act for the better regulation of Railway and Canal Traffic, and for other purposes.* [10th August, 1888.

Be it enacted as follows:

**1.** This act may be cited as the Railway and Canal Traffic Act, 1888. Short title and construction.

This act shall be construed as one with the Regulation of Railways Act, 1873, and the acts amending it; and those acts and this act may be cited together as the Railway and Canal Traffic Acts, 1873 and 1888.

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## PART I.

### Court and Procedure of Railway and Canal Commissioners.

*Establishment of Railway and Canal Commission.*

**2.** On the expiration of the provisions of the Regulation of Railways Act, 1873,* with respect to the commissioners therein mentioned, there shall be established a new commission, styled the Railway and Canal Commission (in this act referred to as the commissioners), and consisting of two appointed and three ex officio commissioners; and such commission shall be a court of record, and have an official seal, which shall be judicially noticed. The commissioners may act notwithstanding any vacancy in their body. Establishment of new Railway and Canal Commission. [See vol. 1., Ch. XL.] * Pages 307, 313.

**3.**—(1.) The two appointed commissioners may be appointed by her Majesty at any time after the passing of this act, and from time to time as vacancies occur. Appointment and tenure of office of appointed Commissioners.

(2.) They shall be appointed on the recommendation of the president of the Board of Trade, and one of them shall be of experience in railway business.

(3.) Section five of the Regulation of Railways Act, 1873, shall apply to each appointed commissioner.

(4.) There shall be paid to each appointed commissioner such salary not exceeding three thousand pounds a year as the president of the Board of Trade may, with the concurrence of the Treasury, determine.

(5.) It shall be lawful for the Lord Chancellor, if he think fit, to remove for inability or misbehaviour any appointed commissioner.

Appointment of ex officio Commissioners.

**4.**—(1.) Of the three ex officio commissioners of the Railway and Canal Commission one shall be nominated for England, one for Scotland, and one for Ireland; and an ex officio commissioner shall not be required to attend out of the part of the United Kingdom for which he is nominated.

(2.) The ex officio commissioner in each case shall be such judge of a superior court as—

(*a*.) in England the Lord Chancellor: and

(*b*.) in Scotland the Lord President of the Court of Session, and

(*c*.) in Ireland the Lord Chancellor of Ireland;

may from time to time by writing under his hand assign, and such assignment shall be made for a period of not less than five years.

Attendance of ex officio Commissioners.

(3.) For the purpose of the attendance of the ex officio commissioners, regulations shall be made from time to time by the Lord Chancellor (*c*), the Lord President of the Court of Session, and the Lord Chancellor of Ireland respectively, in communication with the ex officio commissioners for England, Scotland, or Ireland, as the case may be, as to the arrangements for securing their attendance, as to the times and place of sitting in each case, and otherwise for the convenient and speedy hearing thereof.

Sittings of Commissioners.

**5.**—(1.) Subject to the provisions of this act, and to general rules under this act, the commissioners may hold sittings in any part of the United Kingdom, in such place or places as may be most convenient for the determination of proceedings before them.

Central office.

(2.) The central office of the commissioners shall be in London, and the commissioners when holding a public sitting in London shall hold the same at the Royal Courts of Justice, or at such other place as the Lord Chancellor may from time to time appoint.

Quorum.

Prevalence of opinion of ex-officio Commissioner on point of law.

(3.) Not less than three commissioners shall attend at the hearing of any case, and the ex officio commissioner shall preside, and his opinion upon any question which in the opinion of the commissioners is a question of law shall avail.

* Page 312.

(4.) Save as aforesaid, section twenty-seven of the Regulation of Railways Act, 1873*, shall apply, and any act may be done by any two commissioners.

Judicial duties of ex-officio Commissioner.

(5.) Every judge who may with his consent be assigned to hold the office of ex officio commissioner shall attend to hear any cases before the Commission, which as ex officio commissioner he is required to hear, when and as soon as the cases are ready to be heard, or as soon thereafter as reasonably may be; and any such judge shall be required to perform any of the other duties of a judge of a superior court only when his attendance on the commission is not required.

Temporary ex-officio Commissioner.

(6.) If and when any judge who may be assigned to hold the office of ex officio commissioner is temporarily unable to attend, the Lord Chancellor in England, the Lord President of the Court of Session in Scotland, and the Lord Chancellor in Ireland, may respectively nominate any judge of a superior court to sit as ex officio commissioner in place of the judge who is so temporarily unable to attend as aforesaid, and the judge so nominated

(*c*) No regulations of the Lord Chancellor have as yet (March, 1889) been made public.

shall for the purpose of any case which he may hear be an ex officio commissioner.

Temporary appointed Commissioner.

(7.) If the president of the Board of Trade is satisfied either of the inability of an appointed commissioner to attend at the hearing of any case, or of there being a vacancy in the office, and in either case of the necessity of a speedy hearing of the case, he may appoint a temporary commissioner to hear such case, and such commissioner, for all purposes connected with such case, shall, until the final determination thereof, have the same jurisdiction and powers as if he were an appointed commissioner. A temporary commissioner shall be paid such sum by the commissioner so unable to sit, or, if the office is vacant, out of the salary of the office, as the president of the Board of Trade may assign.

Appointment of additional judge.

**6.** On an address from both Houses of Parliament representing that, regard being had to the duties imposed by this act on the ex officio commissioners, the state of business of the High Court in England requires the appointment of an additional judge of that court, it shall be lawful for her Majesty to appoint an additional judge of such court, and from time to time, on a like address but not otherwise, to fill any vacancy in such judgeship, and the law relating to the appointment and qualification of the judges of such superior court, to their duties and tenure of office, to their precedence, salary and pension, and otherwise, shall apply to any judge so appointed under this section, and a judge so appointed under this section shall be attached to such division or branch of the court as her Majesty may direct, subject to such power of transfer as may exist in the case of any other judge of such division or branch.

Complaints by harbour board, town or county council, &c.

**7.**—(1.) Any of the following authorities, that is to say—

(*a.*) any of the following local authorities, namely, any harbour board, or conservancy authority, the common council of the City of London, any council of a city or borough, any representative county body which may be created by an act passed in the present or any future session of Parliament (*d*), any justices in quarter sessions assembled, the Commissioners of Supply of any county in Scotland, the Metropolitan Board of Works, or any urban sanitary authority not being a council as aforesaid, or any rural sanitary authority; or

Chambers of commerce, &c.

(*b.*) any such association of traders or freighters, or chamber of commerce or agriculture as may obtain a certificate from the Board of trade that it is, in the opinion of the Board of Trade, a proper body to make such complaint (*e*),

may make to the commissioners any complaint which the commissioners have jurisdiction to determine, and may do so without proof that such authority is aggrieved by the matter complained of, and any of such authorities may appear in opposition to any complaint which the commissioners have jurisdiction to determine in any case where such authority, or the persons represented by them, appear to the commissioners to be likely to be affected by any determination of the commissioners upon such complaint.

(2.) The Board of Trade may, if they think fit, require, as a condition of giving a certificate under this section, that security be given in such manner and to such amount as they think necessary, for any costs which the complainants may be ordered to pay or bear (*ee*).

(3.) Any certificate granted under this section shall, unless withdrawn, be in force for twelve months from the date on which it was given.

(*d*) See Local Government Act, 1888.
(*e*) By s. 17, sub-s. 1, there is no appeal on locus standi.
(*ee*) As to defraying expenses by a vote, see s. 54.

*Jurisdiction.*

Jurisdiction of Railway Commissioners transferred to the Commission.

8. There shall be transferred to and vested in the commissioners all the jurisdiction and powers which at the commencement of this act were vested in, or capable of being exercised by the railway commissioners, whether under the Regulation of Railways Act, 1873, or any other act, or otherwise, and any reference to the railway commissioners in the Regulation of Railways Act, 1873, or in any other act, or in any document, shall, from and after the commencement of this act, be construed to refer to the Railway and Canal Commission established by this act.

Jurisdiction of Commissioners under special Acts

* Page 176.

9. Where any enactment in a special act—

(*a*) contains provisions relating to traffic facilities, undue preference, or other matters mentioned in section two of the Railway and Canal Traffic Act, 1854 * ; or

(*b*) requires a company to which this part of this act applies to provide any station, road, or other similar work for public accommodation ; or

(*c*) otherwise imposes on a company to which this part of this act applies any obligation in favour of the public or any individual ;

or where any act contains provisions relating to private branch railways or private sidings, the commissioners shall have the like jurisdiction to hear and determine a complaint of a contravention of the enactment as the commissioners have to hear and determine a complaint of a contravention of section two of the Railway and Canal Traffic Act, 1854, as amended by subsequent acts.

Jurisdiction over tolls and rates.

[See vol. I., ch. XII., s. 4.]

10. Where any question or dispute arises, involving the legality of any toll, rate, or charge, or portion of a toll, rate, or charge, charged or sought to be charged for merchandise traffic by a company to which this part of this act applies, the commissioners shall have jurisdiction to hear and determine the same, and to enforce payment of such toll, rate, or charge, or so much thereof as the commissioners decide to be legal.

Jurisdiction to order traffic facilities, notwithstanding agreements.

[See vol. I., ch. XII., s. 8(*b*).]

11. Nothing in any agreement, whether made before or after the passing of this act, which has not been confirmed by act or by the Board of Trade, or by the commissioners under the Regulation of Railways Act, 1873, or this act, shall render a company to which this part of this act applies unable to afford, or shall authorise such company to refuse, such reasonable facilities for traffic as may in the opinion of the commissioners be required in the interests of the public, or shall prevent the commissioners from making or enforcing any order with respect to such facilities.

Power to award damages.

12. Where the commissioners have jurisdiction to hear and determine any matter, they may, in addition to or in substitution for any other relief, award to any complaining party who is aggrieved such damages as they find him to have sustained ; and such award of damages shall be in complete satisfaction of any claim for damages, including repayment of overcharges, which, but for this act, such party would have had by reason of the matter of complaint.

Provided that such damages shall not be awarded unless complaint has been made to the commissioners within one year from the discovery by the party aggrieved of the matter complained of.

The commissioners may ascertain the amount of such damages either by trial before themselves, or by directing an inquiry to be taken before one or more of themselves or before some officer of their court.

No damages where rates published under certain conditions.

13. In cases of complaint of undue preference no damages shall be awarded if the commissioners shall find that the rates complained of have, for the period during which such rates have been in operation, been duly published in the rate books of the railway company kept at their stations

in accordance with section fourteen of the Regulation of Railways Act, 1873*, as amended by this act, unless and until the party complaining shall have given written notice to the railway company requiring them to abstain from or remedy the matter of complaint, and the railway company shall have failed, within a reasonable time, to comply with such requirements in such a manner as the commissioners shall think reasonable.

* Page 309.

Orders on two or more companies.

**14.** The commissioners may order two or more companies to which this part of this act applies to carry into effect an order of the commissioners, and to make mutual arrangements for that purpose, and may further order the companies or, in case of difference, any of them, to submit to the commissioners for approval a scheme for carrying into effect the order, and when the commissioners have finally approved the scheme, they may order each of the companies to do all that is necessary on the part and within the power of such company to carry into effect the scheme, and may determine the proportions in which the respective companies are to defray the expense of so doing, and may for the above purposes make, if they think fit, separate orders on any one or more of such companies.

Provided that nothing in this section shall authorize the commissioners to require two companies to do anything which they would not have jurisdiction to require to be done if such two companies were a single company.

Amendment of s. 8 of Act of 1873, as to references to arbitration.

**15.** For the purposes of section eight of the Regulation of Railways Act, 1873*, and any other enactment relating to the reference to the Railway Commission of any difference between companies which under the provisions of any general or special act is required or authorised to be referred to arbitration, the provisions of any agreement confirmed or authorised by any such act shall be deemed to be provisions of such act.

* Page 309.

Power to apportion expenses between railway company and applicants for works.

**16.**—(1.) Where the Board of Trade or the commissioners, in the exercise of any power given by any general or special act, on application order a company to which this part of this act applies, to provide a bridge, subway, or approach, or any work of a similar character, the Board of Trade or the commissioners, as the case may be, may require as a condition of making the order that an agreement to pay the whole or a portion of the expenses of complying with the order shall be entered into by the applicants or some of them, or such other persons as the Board of Trade or commissioners think fit, and any of the following local authorities, namely, any sanitary authority, highway board, surveyor of highways acting with the consent of the vestry of his parish, or any other authority having power to levy rates, shall have power, if such authority think fit, to enter into any such agreement as is sanctioned by the Board of Trade or commissioners for the purpose of the order.

(2.) In such case any question respecting the persons by whom or the proportions in which the expenses of complying with the order are to be defrayed may, on the application of any party to the application, or on a certificate of the Board of Trade, be determined by the commissioners.

(3.) In this section the expression "parish" shall have the same meaning as the same expression has in the acts relating to highways; and the expression "the consent of the vestry of his parish" shall, in any place where there is no vestry meeting, mean the consent of a meeting of inhabitants contributing to the highway rates, provided that the same notice shall have been given of such a meeting as would be required by law for the assembling of a meeting in vestry.

*Appeals.*

Appeals on questions of law to superior court of appeal.

**17.**—(1.) No appeal shall lie from the commissioners upon a question of fact, or upon any question regarding the locus standi of a complainant.

(2.) Save as otherwise provided by this act, an appeal shall lie from the commissioners to a superior court of appeal.

(3.) An appeal shall not be brought except in conformity with such rules of court as may from time to time be made in relation to such appeals by the authority having power to make rules of court for the superior court of appeal (*f*).

(4.) On the hearing of an appeal the court of appeal may draw all such inferences as are not inconsistent with the facts expressly found, and are necessary for determining the question of law, and shall have all such powers for that purpose as if the appeal were an appeal from a judgment of a superior court, and may make any order which the commissioners could have made, and also any such further or other order as may be just, and the costs of and incidental to an appeal shall be in the discretion of the court of appeal, but no commissioner shall be liable to any costs by reason or in respect of any appeal.

Appeal to House of Lords

(5.) The decision of the superior court of appeal shall be final: Provided that where there has been a difference of opinion between any two of such superior courts of appeal, any superior court of appeal in which a matter affected by such difference of opinion is pending may give leave to appeal to the House of Lords, on such terms as to costs as such court shall determine.

No prohibition, &c.

(6.) Save as provided by this act, an order or proceeding of the commissioners shall not be questioned or reviewed, and shall not be restrained or removed by prohibition, injunction, certiorari, or otherwise, either at the instance of the Crown or otherwise.

*Supplemental.*

General powers and enforcement of orders.

**18.**—(1.) For the purposes of this act the commissioners shall have full jurisdiction to hear and determine all matters whether of law or of fact, and shall as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of their orders, the entry on and inspection of property, and other matters necessary or proper for the due exercise of their jurisdiction under this act, or otherwise for carrying this act into effect, have all such powers, rights, and privileges as are vested in a superior court: Provided that no person shall be punished for contempt of court, except with the consent of an ex officio commissioner.

(2.) The commissioners may review and rescind or vary any order made by them; but, save as is by this act provided, every decision or order of the commissioners shall be final.

Costs.

**19.** The costs of and incidental to every proceeding before the commissioners shall be in the discretion of the commissioners, who may order by whom and to whom the same are to be paid, and by whom the same are to be taxed and allowed.

Power to make rules.

**20.**—(1.) The commissioners may from time to time, with the approval of the Lord Chancellor and the President of the Board of Trade, make, rescind, and vary general rules for their procedure and practice under this act, and generally for carrying into effect this part of this act.

(2.) All rules made under this section shall be laid before Parliament within three weeks after they are made, if Parliament is then sitting, and

(*f*) No Rules of Court as to appeal have as yet (March, 1889) appeared.

if Parliament is not then sitting within three weeks after the beginning of the then next session of Parliament, and shall be judicially noticed, and shall have effect as if they were enacted by this act (*g*).

**21.**—(1.) There shall be attached to the Railway and Canal Commission such officers, clerks, and messengers as the Lord Chancellor, with the consent of the Treasury as to number, from time to time appoints. Appointment of officers, clerks, &c.

(2.) There shall be paid to each of such officers, clerks, and messengers, such salaries as the Treasury from time to time determine.

**22.** The salaries of the appointed commissioners, and of all officers, clerks, and messengers attached to the Railway and Canal Commission, and all the expenses of the said commission of and incidental to the carrying out of this act, shall be paid out of moneys to be provided by Parliament. Salaries, expenses, &c.

**23.** This part of this act shall apply to any railway company, and to any canal company, and to any railway and canal company. Company to which Part I. applies.

## PART II.

### TRAFFIC.

**24.**—(1.) Notwithstanding any provision in any general or special act, every railway company shall submit to the Board of Trade a revised classification of merchandise traffic, and a revised schedule of maximum rates and charges applicable thereto, proposed to be charged by such railway company, and shall fully state in such classification and schedule the nature and amounts of all terminal charges proposed to be authorised in respect of each class of traffic, and the circumstances under which such terminal charges are proposed to be made. In the determination of the terminal charges of any railway company regard shall be had only to the expenditure reasonably necessary to provide the accommodation in respect of which such charges are made, irrespective of the outlay which may have been actually incurred by the railway company in providing that accommodation. Revised classification of traffic and schedule of rates. [See vol. I., ch. XII., s. 4.]

(2.) The classification and schedule shall be submitted within six months from the passing of this act, or such further time as the Board of Trade may, in any particular case, permit, and shall be published in such manner as the Board of Trade may direct.

(3.) The Board of Trade shall consider the classification and schedule, and any objections thereto, which may be lodged with them on or before the prescribed time and in the prescribed manner, and shall communicate with the railway company and the persons (if any) who have lodged objections, for the purpose of arranging the differences which may have arisen.

(4.) If, after hearing all parties whom the Board of Trade consider to be entitled to be heard before them respecting the classification and schedule, the Board of Trade come to an agreement with the railway company as to the classification and schedule, they shall embody the agreed classification and schedule in a provisional order, and shall make a report thereon, to be submitted to Parliament, containing such observations as they think fit in relation to the agreed classification and schedule. Embodiment of agreed classification in Provisional Order.

(5.) When any agreed classification and schedule have been embodied in a provisional order, the Board of Trade, as soon as they conveniently can after the making of the provisional order (of which the railway company shall be deemed to be the promoters), shall procure a bill to be introduced into either House of Parliament for an act to confirm the provisional order, which shall be set out at length in the schedule to the bill. Bill.

(*g*) For Rules under this section, see p. 393, *post*.

Determination of classification by Board of Trade on default of company, or failure to agree.

(6.) In any case in which a railway company fails within the time mentioned in this section to submit a classification and schedule to the Board of Trade, and also in every case in which a railway company has submitted to the Board of Trade a classification and schedule, and after hearing all parties whom the Board of Trade consider to be entitled to be heard before them, the Board of Trade are unable to come to an agreement with the railway company as to the railway company's classification and schedule, the Board of Trade shall determine the classification of traffic which, in the opinion of the Board of Trade, ought to be adopted by the railway company, and the schedule of maximum rates and charges, including all terminal charges proposed to be authorized applicable to such classification which would, in the opinion of the Board of Trade, be just and reasonable, and shall make a report, to be submitted to Parliament, containing such observations as they may think fit in relation to the said classification and schedule, and calling attention to the points therein on which differences which have arisen have not been arranged.

(7.) After the commencement of the session of Parliament next after that in which the said report of the Board of Trade has been submitted to Parliament, the railway company may apply to the Board of Trade to submit to Parliament the question of the classification and schedule which ought to be adopted by the railway company, and the Board of Trade shall on such application, and in any case may, embody in a Provisional Order such classification and schedule as in the opinion of the Board of Trade ought to be adopted by the railway company, and procure a Bill to be introduced into either House of Parliament for an act to confirm the Provisional Order, which shall be set out at length in the schedule to the bill.

Petition against Bill.

(8.) If, while any bill to confirm a Provisional Order made by the Board of Trade under this section is pending in either House of Parliament, a petition is presented against the bill or any classification and schedule comprised therein, the bill, so far as it relates to the matter petitioned against, shall be referred to a Select Committee, or if the two Houses of Parliament think fit so to order, to a joint committee of such Houses, and the petitioner shall be allowed to appear and oppose as in the case of a private bill.

Employment of skilled persons upon the classifications.

(9.) In preparing, revising, and settling the classifications and schedules of rates and charges, the Board of Trade may consult and employ such skilled persons as they may deem necessary or desirable; and they may pay to such persons such remuneration as they may think fit and as the Treasury may approve.

The statutory rates.

(10.) The Act of Parliament confirming any Provisional Order made under this section shall be a public general act, and the rates and charges mentioned in a Provisional Order as confirmed by such act shall, from and after the act coming into operation, be the rates and charges which the railway company shall be entitled to charge and make.

Amendment of classification.

(11.) At any time after the confirmation of any Provisional Order under this section any railway company may, and any person, upon giving not less than twenty-one days' notice to the railway company may, apply in the prescribed manner to the Board of Trade to amend any classification and schedule by adding thereto any articles, matters, or things, and the Board of Trade may hear and determine such application, and classify and deal with the articles, matters, or things referred to therein in such manner as the Board of Trade shall think right. Every determination of the Board of Trade under this sub-section shall forthwith be published in the "London Gazette," and shall take effect as from the date of the publication thereof.

Mails.

(12.) Nothing in this section shall apply to any remuneration payable by the Postmaster-General to any railway company for the conveyance of mails,

letter bags, or parcels under any general or special act relating to the conveyance of mails, or under the Post Office (Parcels) Act, 1882.* * Page 230

(13.) Nothing in this section shall apply to any remuneration payable by the Secretary of State for War to any railway company for the conveyance of War Office stores under the powers conferred by the Cheap Trains Act, 1883.† War Office stores

† Page 312.

25. Whereas by section two of the Railway and Canal Traffic Act, 1854, it is enacted that every railway company and canal company, and railway and canal company shall, according to their respective powers, afford all reasonable facilities for the receiving and forwarding and delivering of traffic upon and from the several railways and canals belonging to or worked by such companies respectively, and for the return of carriages, trucks, boats, and other vehicles; and that no such company shall make or give any undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever, or shall subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and that every railway company and canal company and railway and canal company having or working railways or canals which form part of a continuous line of railway, or canal or railway and canal communication, or which have the terminus station or wharf of the one near the terminus station or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways or canals all the traffic arriving by the other, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways or canals or railways and canals as a continuous line of communication, and so that all reasonable accommodation may by means of the railways and canals of the several companies be at all times afforded to the public in that behalf: Recital of s. 2 of Act of 1854.

And whereas it is expedient to explain and amend the said enactment;

Be it therefore enacted, that—

Subject as herein-after mentioned, the said facilities to be so afforded are hereby declared to and shall include the due and reasonable receiving, forwarding, and delivering by every railway company and canal company and railway and canal company, at the request of any other such company, of through traffic to and from the railway or canal of any other such company at through rates, tolls, or fares (in this act referred to as through rates); and also the due and reasonable receiving, forwarding, and delivering by every railway company and canal company and railway and canal company at the request of any person interested in through traffic, of such traffic at through rates: Provided that no application shall be made to the commissioners by such person until he has made a complaint to the Board of Trade under the provisions of this act as to complaints to the Board of Trade of unreasonable charges, and the Board of Trade have heard the complaint in the manner herein provided. Forwarding, &c., of through traffic at through rates. [See vol. I., ch. XI., s. 8 (d).]

Provided as follows:

(1.) The company or person requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding company, stating both its amount and the route by which the traffic is proposed to be forwarded; and when a company gives such notice it shall also state the apportionment of the through rate. The proposed through rate may be per truck or per ton: Provisoes as to notice, &c.

(2.) Each forwarding company shall, within ten days, or such longer period as the commissioners may from time to time by general

order prescribe, after the receipt of such notice, by written notice inform the company or persons requiring the traffic to be forwarded, whether they agree to the rate and route; and if they object to either, the grounds of the objection:

(3.) If at the expiration of the prescribed period no such objection has been sent by any forwarding company, the rate shall come into operation at such expiration:

(4.) If an objection to the rate or route has been sent within the prescribed period, the matter shall be referred to the commissioners for their decision:

(5.) If an objection be made to the granting of the rate or to the route, the commissioners shall consider whether the granting of a rate is a due and reasonable facility in the interest of the public, and whether, having regard to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly, or fix such other rate as may seem to the commissioners just and reasonable:

(6.) Where, upon the application of a person requiring traffic to be forwarded, a through rate is agreed to by the forwarding companies or is made by order of the commissioners, the apportionment of such through rate, if not agreed upon between the forwarding companies, shall be determined by the commissioners:

(7.) If the objection be only to the apportionment of the rate, the rate shall come into operation at the expiration of the prescribed period, but the decision of the commissioners, as to its apportionment, shall be retrospective; in any other case the operation of the rate shall be suspended until the decision is given:

(8.) The commissioners, in apportioning the through rate, shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance, or working of the route, or any part of the route, as well as any special charges which any company may have been entitled to make in respect thereof:

(9.) It shall not be lawful for the commissioners in any case to compel any company to accept lower mileage rates than the mileage rates which such company may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route.

Steam vessels.

Where a railway company or canal company use, maintain, or work, or are party to an arrangement for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, the provisions of this section shall extend to such steam vessels, and to the traffic carried thereby.

Costs.

When any company, upon written notice being given as aforesaid, refuses or neglects without reason to agree to the proposed through rates, or to the route, or to the apportionment, the commissioners, if an order is made by them upon an application for through rates, may order the respondent company or companies to pay such costs to the applicants as they think fit.

Allowance of less than maximum.

**26.** Subject to the provisions in the last preceding section contained, the commissioners shall have full power to decide that any proposed through rate is just and reasonable, notwithstanding that a less amount may be allotted to any forwarding company out of such through rate than the maximum rate such company is entitled to charge, and to allow and apportion such through rate accordingly.

Undue preference.

Burden of proof.

[See vol. I., ch. XII., s. 8 (c)].

**27.**—(1.) Whenever it is shown that any railway company charge one trader or class of traders, or the traders in any district, lower tolls, rates, or charges for the same or similar merchandise, or lower tolls, rates, or charges for the same or similar services, than they charge to other traders, or classes of traders, or to the traders in another district, or make any difference in treatment in respect of any such trader or traders, the burden of proving that such lower charge or difference in treatment does not amount to an undue preference shall lie on the railway company.

Consideration whether lower charge necessary to secure traffic.

(2.) In deciding whether a lower charge or difference in treatment does or does not amount to an undue preference, the court having jurisdiction in the matter, or the commissioners, as the case may be, may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge or difference in treatment is necessary for the purpose of securing in the interests of the public the traffic in respect of which it is made, and whether the inequality cannot be removed without unduly reducing the rates charged to the complainant: Provided that no railway company shall make, nor shall the court, or the commissioners, sanction any difference in the tolls, rates, or charges made for, or any difference in the treatment of, home and foreign merchandise, in respect of the same or similar services.

Foreign merchandise.

No higher charge for less distance.

(3.) The court or the commissioners shall have power to direct that no higher charge shall be made to any person for services in respect of merchandise carried over a less distance than is made to any other person for similar services in respect of the like description and quantity of merchandise carried over a greater distance on the same line of railway.

Extension of enactments as to undue preference to goods carried by sea.

**28.** The provisions of section two of the Railway and Canal Traffic Act, 1854, and of section fourteen of the Regulation of Railways Act, 1873, and of any enactments amending and extending those enactments, shall apply to traffic by sea in any vessels belonging to or chartered or worked by any railway company, or in which any railway company procures merchandise to be carried, in the same manner and to the like extent as they apply to the land traffic of a railway company.

Group rates may be chargeable by railway companies.

[See vol. I., ch. XII., ss. 5 and 7.]

**29.**—(1.) Notwithstanding any provision in any general or special act, it shall be lawful for any railway company, for the purpose of fixing the rates to be charged for the carriage of merchandise to and from any place on their railway, to group together any number of places in the same district, situated at various distances from any point of destination or departure of merchandise, and to charge a uniform rate or uniform rates of carriage for merchandise to and from all places comprised in the group from and to any point of destination or departure.

(2.) Provided that the distances shall not be unreasonable, and that the group rates charged and the places grouped together shall not be such as to create an undue preference.

(3.) Where any group rate exists or is proposed, and in any case where there is a doubt whether any rates charged or proposed to be charged by a railway company may not be a contravention of section two of the Railway and Canal Traffic Act, 1854, and any acts amending the same, the railway company may, upon giving notice in the prescribed manner, apply to the commissioners, and the commissioners may, after hearing the parties interested and any of the authorities mentioned in section seven of this act, determine whether such group rate or any rate charged or proposed to be charged as aforesaid does or does not create an undue preference. Any person aggrieved, and any of the authorities mentioned in section seven of this act, may, at any time after the making of any order under this section, apply to the commissioners to vary or rescind the order, and

the commissioners, after hearing all parties who are interested, may make an order accordingly.

Power to dock companies and harbour boards to complain of undue preference.

**30**. Any port or harbour authority or dock company which shall have reason to believe that any railway company is by its rates or otherwise placing their port, harbour, or dock, at an undue disadvantage as compared with any other port, harbour, or dock to or from which traffic is or may be carried by means of the lines of the said railway company, either alone or in conjunction with those of other railway companies, may make complaint thereof to the commissioners, who shall have the like jurisdiction to hear and determine the subject-matter of such complaint as they have to hear and determine a complaint of a contravention of section two of the Railway and Canal Traffic Act, 1854, as amended by subsequent acts.

Complaints to Board of Trade of unreasonable charges by railway companies.

[See vol. I., ch. XII., s. 4.]

**31**.—(1.) Whenever any person receiving or sending or desiring to send goods by any railway is of opinion that the railway company is charging him an unfair or an unreasonable rate of charge, or is in any other respect treating him in an oppressive or unreasonable manner, such person may complain to the Board of Trade.

(2.) The Board of Trade, if they think that there is reasonable ground for the complaint, may thereupon call upon the railway company for an explanation, and endeavour to settle amicably the differences between the complainant and the railway company.

(3.) For the purpose aforesaid, the Board of Trade may appoint either one of their own officers or any other competent person to communicate with the complainant and the railway company, and to receive and consider such explanations and communications as may be made in reference to the complaint; and the Board of Trade may pay to such last-mentioned person such remuneration as they may think fit, and as may be approved by the Treasury.

(4.) The Board of Trade shall from time to time submit to Parliament reports of the complaints made to them under the provisions of this section, and the results of the proceedings taken in relation to such complaints, together with such observations thereon as the Board of Trade shall think fit.

(5.) A complaint under this section may be made to the Board of Trade by any of the authorities mentioned in section seven of this act, in any case in which, in the opinion of any such authorities, they or any traders or persons in their district are being charged unfair or unreasonable rates by a railway company; and all the provisions of this section shall apply to a complaint so made as if the same had been made by a person entitled to make a complaint under this section.

Annual returns by railway companies to contain such statistics as the Board of Trade shall require.

**32**.—(1.) The returns required of a railway company under section nine of the Railways Regulation Act, 1871, shall include such statements as the Board of Trade may from time to time prescribe, and the forms referred to in that section may from time to time be altered by the Board of Trade in such manner as they think expedient for giving effect to this section, and the said section nine of the Railways Regulation Act, 1871, shall apply accordingly.

(2.) The Board of Trade may from time to time alter the times fixed by the said act or by the Railways Regulation Act (Returns of Signal Arrangements, Workings, &c.), 1873, for the forwarding of any of the returns required by the said act or this act.

Classification table to be open for inspection.

**33**.—(1.) The book, tables, or other document in use for the time being containing the general classification of merchandise carried on the railway of any company, shall, during all reasonable hours, be open to the inspection of any person without the payment of any fee at every station at which merchandise is received for conveyance, or where merchandise is received

at some other place than a station then at the station nearest such place, and the said book, tables, or other document as revised from time to time shall be kept on sale at the principal office of the company at a price not exceeding one shilling.

(2.) Printed copies of the classification of merchandise traffic, and schedule of maximum tolls, rates, and charges of every railway company authorised, as provided by this act, shall be kept for sale by the railway company at such places and at such reasonable price as the Board of Trade may by any general or special order prescribe. Copies of classification to be kept for sale.

(3.) The company shall within one week after application in writing made to the secretary of any railway company by any person interested in the carriage of any merchandise which has been or is intended to be carried over the railway of such company, render an account to the person so applying in which the charge made or claimed by the company for the carriage of such merchandise shall be divided, and the charge for conveyance over the railway shall be distinguished from the terminal charges (if any), and from the dock charges (if any), and if any terminal charge or dock charge is included in such account the nature and detail of the terminal expenses or dock charges in respect of which it is made shall be specified. Distinguishment of charge for conveyance from terminal charges.

(4.) Every railway company shall publish at every station at which merchandise is received for conveyance, or where merchandise is received at some other place than a station then at the station nearest to such place, a notice, in such form as may be from time to time prescribed by the Board of Trade, to the effect that such book, tables, and document touching the classification of merchandise and the rates as they are required by this section and section fourteen of the Regulation of Railways Act, 1873, to keep at that station, are open to public inspection, and that information as to any charge can be obtained by application to the secretary or other officer at the address stated in such notice. Publication of notice that classification tables, &c., may be inspected, &c.

(5.) Where a railway company carries merchandise partly by land and partly by sea, all the books, tables, and documents, touching the rates of charge of the railway company, which are kept by the railway company at any port in the United Kingdom used by the vessels which carry the sea traffic of the railway company, shall, besides containing all the rates charged for the sea traffic, state what proportion of any through rate is appropriated to conveyance by sea, distinguishing such proportion from that which is appropriated to the conveyance by land on either side of the sea. Sea traffic.

(6.) Where a railway company intend to make any increase in the tolls, rates, or charges published in the books required to be kept by the company for public inspection, under section fourteen of the Regulation of Railways Act, 1873, or this act, they shall give by publication in such manner as the Board of Trade may prescribe (*gg*) at least fourteen days' notice of such intended increase, stating in such notice the date on which the altered rate or charge is to take effect; and no such increase in the published tolls, rates, or charges of the railway company shall have effect unless and until the fourteen days' notice required under this section has been given. Notice of intended increase in rates.

(7.) Any company failing to comply with the provisions of this section shall, for each offence, and in the case of a continuing offence for every day during which the offence continues, be liable, on summary conviction (*h*), to a penalty not exceeding five pounds. Penalties.

**34.** When traffic is received or delivered at any place on any railway other than a station within the meaning of section fourteen of the Regula- Place of publication of rates in respect of

(*gg*) For Order of Board of Trade under this subsection, see *post*, after the Railway and Canal Commission Rules.

(*h*) For recovery of penalties, see sect. 49.

traffic at places other than stations.

tion of Railways Act, 1873, the railway company on whose line such place is, shall keep at the station nearest such place a book or books showing every rate for the time being charged for the carriage of traffic other than passengers and their luggage, from such place to any place to which they book, including any rates charged under any special contract, and stating the distance from that place of every station, wharf, siding, or place to which such rate is charged.

Every such book shall, during all reasonable hours, be open to the inspection of any person without the payment of a fee.

Power to make rules for purposes of Part II. of Act.

**35.**—(1.) The Board of Trade may from time to time make, rescind, and vary rules with respect to the following matters:—

(*a.*) The form and manner in which classifications and schedules under this part of this act are to be prepared and submitted to the Board of Trade and to Parliament, and the publication, advertisement, and settlement (by the Board of Trade) of such classifications and schedules, and of provisional orders;

(*b.*) All proceedings before the Board of Trade under this part of this act:

(*c.*) The fees to be paid in respect of such proceedings; and

(*d.*) Any matter authorised by this act to be prescribed.

(2.) Any rules made by the Board of Trade in pursuance of this section shall be laid before Parliament within three weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Parliament, and shall be judicially noticed, and shall have effect as if they were enacted by this act (*i*).

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## PART III.

### CANALS.

Part II. to extend to canal companies. [See vol. I., ch. XIV., s. 5.]

**36.** All the provisions of Part II. of this act relating to any railway company shall, so far as applicable, apply to every canal company, and to every railway and canal company; and in Part II. of this act, unless the context otherwise requires, the expression "railway company" shall include a canal company and railway and canal company, and the expression "railway" shall include a canal, and the expression "rate" shall include tolls and dues of every description chargeable for the use of any canal or by any canal company.

Application of s. 15 of Act of 1873 to canals.

**37.**—(1.) Section fifteen of the Regulation of Railways Act, 1873, shall apply to the terminal charges of a canal company.

(2.) The Railway and Canal Traffic Act, 1854, as amended by the Regulation of Railways Act, 1873, shall extend to any person whose consent is required to any variation of the rates, tolls, or dues charged for the use of any canal, or by any canal company, in like manner as if such person were a canal company, and the expressions "canal company" and "railway and canal company" in the said acts and this act shall be construed accordingly to include such person.

(3.) The provisions of the Railway and Canal Traffic Act, 1854, and the Regulation of Railways Act, 1873, with respect to rates, shall apply to tolls and dues of every description chargeable for the use of any canal or by any canal company. And nothing in any agreement, whether made before or after the passing of this act, and whether confirmed by act of Parliament or not, and nothing in this act shall prevent the commissioners from

(*i*) For Rules under this section, see vol. I., p. 700.

making or enforcing any order for a through rate or toll which may in their opinion be required in the interest of the public.

(4.) Any company allowing traffic to pass from a canal on to any other canal or any railway, or from a railway on to a canal, shall be deemed to be a forwarding company, and the allowing of traffic so to pass shall be deemed to be the forwarding of traffic within the meaning of the above-mentioned acts.

(5.) The provisions of the Railway and Canal Traffic Act, 1854, and of the Regulation of Railways Act, 1873, and of this act, with respect of through rates, shall extend to any canals which, in connection with any river or other waterway, form part of a continuous line of water communication, notwithstanding that tolls may not be leviable by authority of Parliament upon such river or other waterway.

Powers of Commissioners over canal tolls, rates and charges where a railway company or its officers own or control the traffic of a canal.

**38.** Where a railway company, or the directors or officers of a railway company, or any of them or any persons on their behalf, have the control over, or the right to interfere in or concerning the traffic conveyed, or the tolls, rates, or charges levied on the traffic of or for the conveyance of merchandise on a canal, or any part of a canal, and it is proved to the satisfaction of the commissioners that the tolls, rates, or charges levied on the traffic of or for the conveyance of merchandise on the canal are such as are calculated to divert the traffic from the canal to the railway, to the detriment of the canal or persons sending traffic over the canal or other canals adjacent to it—

(1.) The commissioners may, on the application of any person interested in the traffic of the canal, make an order requiring the tolls, rates, and charges levied on the traffic of or for the conveyance of merchandise on the canal, to be altered and adjusted in such a manner that the same shall be reasonable as compared with the rates and charges for the conveyance of merchandise on the railway:

(2.) If within such time as may be prescribed by the order of the commissioners, the tolls, rates, and charges levied on the traffic of or for the conveyance of merchandise on the canal are not altered and adjusted as required by such order, the commissioners may themselves by an order make such alterations in and ajustment of the tolls, rates, and charges levied on the traffic of or for the conveyance of merchandise on the canal as they shall think just and reasonable, and the tolls, rates, and charges as altered and adjusted by the order of the commissioners shall be binding on the company or persons owning or having the control over the traffic of, or the tolls, rates, and charges levied on the traffic of, or for the conveyance of merchandise on the canal:

(3.) No application shall be made to the commmissioners under this section until the Board of Trade have certified that the applicant is a fit person to make the application, and that the application is a proper one to be submitted for the adjudication of the commissioners; and no order shall be made by the commissioners under this section unless notice of the application has been served upon such company and persons, and in such manner as the Board of Trade may direct:

(4.) The commissioners may at any time, upon the application of any company or person affected by any order made under this section, and after notice to and hearing such companies and persons as the commissioners may by any general rules or special order prescribe, rescind or vary any order made under this section.

Returns by canal companies.

**39.**—(1.) Every canal company shall, on or before the first day of January in every year, beginning on the first day of January next after the passing of this act, send to the registrar of joint stock companies a return stating the name of the company, a short description of their canal, the name of their principal officer, and the place of their office, or, if they have more than one office, of their principal office.

(2.) Every canal company shall within such time as may be prescribed by the Board of Trade, and afterwards from time to time whenever required by the Board of Trade, not being oftener than once in every year, forward to the Board of Trade in such form and manner as the Board may from time to time prescribe, such returns as the Board of Trade may require for the purpose of showing the capacity of such canal for traffic, and the capital, revenue, expenditure, and profits of the canal company.

(3.) When the canal of a canal company, or any part thereof, is intended to be stopped for more than two days, the company shall report to the Board of Trade, stating the time during which such stoppage is intended to last, and when the same is re-opened the company shall so report to the Board of Trade.

(4.) A company failing to comply with this section, shall be liable, on summary conviction, to a fine not exceeding five pounds for every day during which their default continues, and any director, manager, and officer of the company who knowingly and wilfully authorizes or permits the default shall be liable, on summary conviction, to the like fine.

Bye-laws of canal companies.

**40.**—(1.) Every canal company shall, before such date as the Board of Trade may prescribe, forward to the Board of Trade true copies, certified in such manner as the Board of Trade direct, of any bye-laws or regulations of such company which are in force at the commencement of this act; and the bye-laws of any canal company, copies of which are not forwarded to the Board of Trade as provided by this section, shall from and after the said date cease to have any operation, save in so far as any penalty may have been already incurred under the same.

(2.) A bye-law or regulation of any canal company hereafter to be made under any power which has before or at the time of the passing of this act been, or which may hereafter be, conferred on any canal company, shall not have any force or effect until two months after a true copy of such bye-law or regulation, certified in such manner as the Board of Trade direct, has been forwarded to the Board of Trade, unless the Board of Trade before the expiration of such period have signified their approbation thereof.

(3.) The Board of Trade may, at any time after any existing or future bye-laws or regulations of a canal company have been forwarded to them, notify to the company their disallowance thereof, or of any of them, and in case such bye-laws or regulations are in force at the time of the disallowance, the time at which the said bye-laws or regulations shall cease to be in force. A bye-law or regulation disallowed by the Board of Trade shall not after such disallowance have any force or effect whatever, save (as regards any bye-law or regulation which may be in force at the time of the disallowance thereof) in so far as any penalty may have been then already incurred under the same.

(4.) The Board of Trade may from time to time make, rescind, and vary such regulations as they think fit with respect to the publication by canal companies of their bye-laws and regulations, and with respect to the publication by canal companies of their intention to apply to the Board of Trade for the allowance of any intended bye-laws and regulations. Any regulations so made which are for the time being in force, shall have effect as if they had been enacted in this act.

**41.** Whenever the Board of Trade are, through their officers or otherwise, informed that the works of any canal are in such a condition as to be dangerous to the public, or to cause serious inconvenience or hindrance to traffic, the Board of Trade may direct such officer or other person as they appoint for the purpose to inspect the said canal and report thereon to the Board of Trade, and for the purpose of making any inspection under this section the officer or person appointed for the purpose shall, in relation to the canal or works to be inspected, have all the powers of an inspector appointed under the Regulation of Railways Act, 1871. Inspection of canals. 34 & 35 Vict. c. 78.

**42.**—(1.) No railway company, or director, or officer of a railway company shall, without express statutory authority, apply or use or authorise or permit the application or use of any part of the company's funds for the purpose of acquiring either in the name of the railway company, or of any director or officer of the railway company, or other person, any canal interest, or of enabling any director or officer of the railway company, or other person, to purchase or acquire any canal interest, or of guaranteeing or repaying to any director or officer of the railway company or other person who has purchased or acquired any canal interest the sums of money expended or liability incurred by such director, officer, or person, in the purchase or acquisition of such canal interest, or any part of such money or liability. Misapplication of a railway company's funds for acquisition of unauthorised interest in canal

(2.) In the event of any contravention of the provisions of this section, the canal interest purchased in such contravention shall be forfeited to the Crown, and the directors or officers of the company who so applied or used, or authorised or permitted such application or use of the company's funds, shall be liable to repay to the company the sums so applied or used and the value of the canal interest so forfeited; and proceedings to compel such repayment may be taken by any shareholder in the company.

(3.) In this section the expression "company's funds" means the corporate funds of any railway company, and includes any funds which are under the control of or administered by a railway company; the expression "officer" includes any person having any control over a company's funds or any part thereof; and the expression "canal interest" means shares in the capital of a canal company, and includes any interest of any kind in a canal company or canal.

**43.**—(1.) Any canal company may make and enter into contracts and arrangements with any other canal company or canal companies for the passage over and along their respective canals, or any of them, of boats, barges, vessels, and other through traffic, and for the use, by such traffic, of the wharves, landing places, and other works of any such canal, upon payment of such through tolls, rates, and charges, and subject to such conditions and restrictions as may be agreed upon between such companies; and for the collection and recovery by any one of the companies on behalf of themselves and the other companies interested of the tolls, rates, and charges payable in respect of such through traffic; and for the division and apportionment of the tolls, rates, and charges; and any such contract may contain provisions for the erection and maintenance of or otherwise for providing warehouses, offices, and other buildings and conveniences, and any other provisions for the purpose of carrying into effect any such arrangement, and any company may apply their funds or moneys for the same purpose. Canal companies may agree for through tolls, &c.

(2.) Notwithstanding any enactments providing for the charge of equal tolls, rates, and charges, such through tolls, rates, and charges as above mentioned may respectively be computed at a lower toll or rate per mile than the tolls, rates, or charges charged for the passage over and along the same canals of like traffic, not being through traffic, without necessitating

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or occasioning any reduction of the last-mentioned tolls, rates, or charges.

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(3.) Any like contracts and arrangements existing at the passing of this act shall be, and from the respective dates of the making thereof shall be deemed to have been, as valid as if the same had been made after the commencement of this act.

Canal companies may establish clearing system.

**44.** For the purpose of facilitating through traffic upon canals, any canal companies upon whose canals through tolls, rates, or charges may be in operation, may establish a canal clearing system, on such principles, in such manner, and subject to such regulations as to the admission of other companies to such system, the retirement of members, the appointment of a committee to conduct the business of the system, and of a secretary or other necessary officers, the mode of conducting business, and such other regulations for carrying into effect such system as may from time to time be approved by the Board of Trade in writing under the hand of the secretary or one of the assistant secretaries of that Board; and any company may apply any funds or money belonging to them, for the purpose of establishing or carrying into effect any such system, and the provisions of sections eleven to twenty-six inclusive of the Railway Clearing Act, 1850,* shall, mutatis mutandis, apply to any canal clearing system when so established.

* Page 152.

Abandonment of canal.

**45.**—(1.) Where, on the application of a canal company, it appears to the Board of Trade than any canal or part of a canal belonging to the applicants (hereinafter referred to as an unnecessary canal) is at the time of making the application unnecessary for the purposes of public navigation, or where, on the application of any local authority, or of three or more owners of lands adjoining or near to any canal or part of a canal, it appears to the Board of Trade that that canal or part of a canal (hereinafter referred to as a derelict canal) has for at least three years previously to the making of the application been disused for navigation, or, by reason of the default of the proprietors thereof, has become unfit for navigation, or that the lands adjoining or near thereto have suffered injury by water that has escaped from the derelict canal, and that the proprietors of the derelict canal decline or are unable to effect the repairs necessary to prevent further injury, the Board of Trade may by warrant signed by their secretary authorise the abandonment by the existing proprietors of such unnecessary canal or such derelict canal, and after the granting of the warrant, and the due publication as required by the Board of Trade of a notice of the granting thereof, the Board of Trade may make an order releasing the canal company or other the proprietors of the unnecessary or derelict canal from all liability to maintain the same canal, and from all statutory and other obligations in respect thereof, or of or consequent on the abandonment thereof.

(2.) In the case of an unnecessary canal no warrant of abandonment shall be granted unless the Board of Trade are satisfied—

(*a.*) That it is unnecessary for the purposes of public navigation;

(*b.*) That the application has been expressly authorised by a resolution of a majority of the shareholders of the canal company owning the canal present and voting at an extraordinary or special general meeting of that company;

(*c.*) That such public and other notices of the application have been given as the Board of Trade may require;

(*d.*) That compensation (the amount thereof to be determined in case of difference as the Board of Trade may prescribe) has been made to all persons entitled to compensation by reason of the proposed abandonment of the canal.

(3.) In the case of a derelict canal the warrant may be granted on the condition that the canal or any part thereof, with all or any of the powers relating thereto, be transferred to any person, body of persons, or local authority, and where any such condition is imposed the Board of Trade may, if they think fit, frame and embody in a provisional order a scheme for the management of the canal or any part thereof.

(4.) The provisional order may provide for the constitution of a body to manage the canal or any part thereof, for the transfer to that body or any local authority of the canal or any part thereof, and of all or any of the powers relating thereto, for the limitation or discharge of any liabilities affecting the canal or the owners thereof for the time being, and for any other matters which may appear to the Board of Trade to be necessary or proper for carrying this section into effect.

(5.) The Board of Trade may submit to Parliament for confirmation any provisional order made by it in pursuance of this section, but any such order shall be of no force unless and until it is confirmed by act of Parliament.

(6.) If while the bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the bill, so far as it relates to the order, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of private bills.

(7.) In this section the expression "local authority" means any one of the local authorities mentioned in section seven of this act.

(8.) For the purpose of giving effect to the provisions of this section, the Board of Trade may require the applicants to furnish any evidence in their possession or under their control relative to the application, and may at the expense of the applicants appoint and send an officer to inspect the canal referred to in the application, and to obtain information and evidence in the neighbourhood thereof relative to the proposed abandonment, and may from time to time make regulations as to the mode of making applications, and the nature and mode of publication of notices, and generally as to the conduct of proceedings.

Definition of "canal company."

**46.** In this part of this act the expression "canal company" shall include a "railway and canal company," so far as relating to any canal of any such last-mentioned company.

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## PART IV.

### MISCELLANEOUS.

Perpetuation of Regulation of Railways Act, 1873.

**47.** So much of the Regulation of Railways Act, 1873, as limits the time during which that act shall continue in force shall, save so far as it relates to the appointment of the commission, be repealed, and the said act, save as aforesaid, shall be perpetual.

Evidence on rating appeals.

**48.** On any rating appeal, and before any court, where it may be material to show the receipts or profits of a railway company or canal company, or railway and canal company, it shall be lawful for the company to prove the same by written statements or returns verified by the affidavit or statutory declaration of the manager or other responsible officer, and any such statements or returns shall be primâ facie evidence of the facts therein stated with respect to such receipts or profits: Provided that the person by whom any such affidavit or statutory declaration is made shall in every case, if required, attend to be cross-examined thereon.

Recovery and application of penalties.

**49.** Every penalty recoverable on summary conviction under this Act may be prosecuted and recovered in the manner directed by the Summary Jurisdiction Acts before a court of summary jurisdiction (*k*).

Parties may appear in person or by counsel, &c.

**50.** In any proceedings under this act any party may appear before the commissioners either by himself in person or by counsel or solicitor.

Parliamentary agents entitled to practise before Commissioners.

**51.** Any person who shall be certified by the chairman of committees of the House of Lords or the Speaker of the House of Commons to have practised for two years before the passing of this act in promoting or opposing bills in Parliament shall be entitled to practise in any proceedings under this act as an attorney or agent before the commissioners: Provided that every such person so practising as aforesaid shall, in respect of such practice and everything relating thereto, be subject to the jurisdiction and orders of the commissioners, and further provided that no such person shall practise as aforesaid until his name shall have been entered in a roll to be made and kept, and which is hereby authorized to be made and kept, by the commissioners.

Saving of powers conferred on Commissioners and Board of Trade

**52.** The powers and jurisdiction conferred by this act on the commissioners or Board of Trade shall be in addition to and not in substitution for any powers and jurisdiction vested in the commissioners or Board of Trade by any statute.

Proceedings of Board of Trade.

**53.**—(1.) All documents purporting to be rules, orders, or certificates made or issued by the Board of Trade, and to be sealed with the seal of the board, or to be signed by a secretary or assistant secretary of the board, or any person authorized in that behalf by the president of the board, shall be received in evidence, and deemed to be such orders, rules, or certificates without further proof unless the contrary is shown.

(2.) A certificate signed by the President of the Board of Trade that any order made, certificate issued, or act done, is the order, certificate, or act of the Board of Trade, shall be conclusive evidence of the fact so certified.

Expenses of local authorities.

**54.**—(1.) Where any local authority having power under this act to make or oppose any complaint to the commissioners, or the Board of Trade, or to enter into any agreement to pay the whole or a portion of the expenses of complying with an order of the commissioners or the Board of Trade, or to make any application for the abandonment or acquisition of a canal under this act, incur any expenses in or incidental to such complaint, opposition, agreement, or application, such expenses may be defrayed out of the rates or funds out of which the expenses incurred by such authority in the execution of their ordinary duties are defrayed, and if such authority is a rural sanitary authority in England, shall be defrayed as general expenses, unless the Local Government Board direct that they shall be defrayed as special expenses.

(2.) A local authority may enter into any contract involving the payment by themselves and their successors of any expenses authorized by this section to be defrayed.

(3.) Where any such local authority have no power to borrow money for the purpose of defraying any expenses authorized by this section, such authority, if other than a surveyor of highways, may, with the consent of the Board of Trade in the case of any harbour board or conservancy authority, and with the consent of the Local Government Board in the case of any other authority, borrow money in manner provided by the Local Loans Act, 1875, on the security of the rates or funds out of which the expenses are authorized to be defrayed, and the prescribed period for

(*k*) See the Summary Jurisdiction Acts of 1848, 1859, and 1879, Chit. Stat., vol. iii., tit. "*Justices*," and the "Summary Jurisdiction Rules, 1886," Chit. Stat. for 1886, tit. "*Justices.*"

the loan shall be such period as the board giving such consent may approve.

(4.) On the request of any board whose consent is required for such loan, the Board of Trade or commissioners shall certify such particulars respecting the amount of the said expenses and the propriety of incurring the same and of borrowing for the payment thereof as may be requested by such board.

(5.) In Ireland, any authority borrowing in pursuance of this section may borrow in manner provided by the Public Health (Ireland) Act, 1878, in like manner as if the provisions of that act with respect to borrowing were re-enacted in this section, and in terms made applicable thereto.

**55.** In this Act, unless the context otherwise requires,—

Terms defined by the Regulation of Railways Act, 1873, have the meanings thereby assigned to them: Definitions.

The term "conservancy authority" means any persons who are otherwise than for private profit intrusted with the duty or invested with the power of conserving, maintaining, or improving the navigation of any tidal or inland water or navigation: "Conservancy authority"

The term "harbour board" means any persons who are otherwise than for private profit intrusted with the duty or invested with the power of constructing, improving, managing, regulating, and maintaining a harbour, whether natural or artificial, or any dock: "Harbour board."

The term "Lord Chancellor" means the Lord High Chancellor of Great Britain:

The term "undue preference" includes an undue preference, or an undue or unreasonable prejudice or disadvantage, in any repect, in favour of or against any person or particular class of persons or any particular description of traffic: "Undue preference."

The term "terminal charges" includes charges in respect of stations, sidings, wharfs, depots, warehouses, cranes, and other similar matters, and of any services rendered thereat: "Terminal charges."

The term "merchandise" includes goods, cattle, live stock, and animals of all descriptions: "Merchandise."

The term "trader" includes any person sending, receiving, or desiring to send merchandise by railway or canal: "Trader."

The term "home," in relation to merchandise, includes the United Kingdom, the Channel Islands, and the Isle of Man:

The term "rating appeal" means an appeal against any valuation list or against any poor rate or any other local rate:

The term "Summary Jurisdiction Acts" in Scotland means the Summary Procedure Act, 1864, the Summary Jurisdiction (Process) Act, 1881, and any act or acts amending the same; and in Ireland, within the police district of Dublin metropolis, the acts regulating the powers and duties of justices of the peace for such district, or of the police of such district, and elsewhere, the Petty Sessions (Ireland) Act, 1851, and any act amending the same:

The term "superior court" means, as regards England, the High Court of Justice, as regards Scotland, the Court of Session, and as regards Ireland, the High Court of Justice: "Superior court."

The term "superior court of appeal" means as regards England, Her Majesty's Court of Appeal; as regards Scotland, the Court of Session in either division of the Inner House; and as regards Ireland, Her Majesty's Court of Appeal: "Superior court of appeal."

The term "rules of court" means, as regards Scotland, acts of sederunt.

In the application of this act to Ireland, the expression "council of a borough," includes town or township commissioners, and any reference to justices in quarter sessions shall be construed to refer to a grand jury; and any reference to the Local Government Board or to an urban or rural sanitary authority, shall be construed to refer to the Local Government Board for Ireland, and to an urban or rural sanitary authority in Ireland.

Commencement of Act on Jan. 1st, 1889.

**56.** This act shall come into operation on the first day of January one thousand eight hundred and eighty-nine, which day is in this act referred to as the commencement or this act: Provided that at any time after the passing of this act any appointment and rules may be made, and other things done for the purpose of bringing this act into operation at such commencement.

Pending business.

**57.** Subject to general rules to be made under this act, all proceedings which, at the commencement of this act, under the Regulation of Railways Act, 1873, and Acts amending it, or under any other acts, are pending before the Railway Commissioners, shall be transferred to the Railway and Canal Commission under this act, may thereupon be continued and concluded in all respects as if such proceedings had been originally instituted before that Commission.

Transfer of pending business from superior courts.

**58.** Every action or proceeding which might have been brought before the Railway Commissioners if this act had been in force at the time when such action or proceeding was begun, and is at the commencement of this act pending before any superior court, may, upon the application of either party, be transferred by any judge of such superior court to the Railway and Canal Commissioners under this act, and may thereupon be continued and concluded in all respects as if such action or proceeding had been originally instituted before that Commission: Provided that no such transfer, nor anything herein contained, shall vary or affect the rights or liabilities of any party to such action or proceeding.

Repeal.

**59.**—(1.) The enactments mentioned in the schedule to this act are hereby repealed to the extent therein specified.

(2.) The repeal effected by this Act shall not affect—

(*a.*) Anything done or suffered before the commencement of this act under any enactment repealed by this act, or the expiration of any office which would otherwise have expired by virtue of any enactment repealed by this act; nor

(*b.*) Any right or privilege acquired, or duty imposed, or liability or disqualification incurred, under any enactment so repealed; nor

(*c.*) Any fine, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed or to be committed against any enactment so repealed; nor

(*d.*) The institution or continuance of any proceeding or other remedy, whether under any enactment so repealed, or otherwise, for ascertaining or enforcing any such liability or disqualification, or enforcing or recovering any such fine, forfeiture, or punishment as aforesaid.

## SCHEDULE.

### ACTS REPEALED.

*Note.*—A description or citation in this schedule of a portion of an Act is inclusive of the words, section, or other part first and last mentioned, or otherwise referred to as forming the beginning or as forming the end of the portion described in the description or citation.

| Session and Chapter of Act. | Short Title. | Extent of Repeal |
|---|---|---|
| 17 & 18 Vict. c. 31. | The Railway and Canal Traffic Act, 1854. | Section four and section five. |
| 31 & 32 Vict. c. 119 | The Regulation of Railways Act, 1868. | Section sixteen, paragraph two, from "The provisions of" to the end of the section. |
| 36 & 37 Vict. c. 48 | The Regulation of Railways Act, 1873. | Section three, from "The term 'superior court'" to the end of the section, section four, section eleven, section twelve, section thirteen, section twenty-one, section twenty-two, section twenty-three, section twenty-four, section twenty-five, section twenty-six from the words "The Commissioners may review" to the end of the section, section twenty-eight, section twenty-nine, section thirty-four, and section thirty-seven. |
| 37 & 38 Vict. c. 40. | The Board of Trade Arbitrations, &c. Act, 1874. | Section eight, from "and shall continue in force" to "expiration." |

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## 51 & 52 VICT. CAP. 31.

*An Act to make better provision respecting National Defence.*

[13th August, 1888.

Power of government when militia embodied to have precedence in railway traffic.

**4.**—(1) Whenever an order for the embodiment of the militia is in force (*l*), it shall be lawful for her Majesty the Queen, by order signified under the hand of a secretary of state, to declare that it is expedient for the public service that traffic for naval and military purposes shall have on the railways in the United Kingdom, or such of them as is mentioned in the order, precedence over other traffic (*m*).

(2) When any such order is in force as respects a railway, an officer of any part of her Majesty's naval or military forces acting under the authority of a secretary of state or the admiralty may, by warrant under his hand addressed to the railway company working that railway, require that such

(*l*) By s. 18 of the Militia Act, 1882, 45 & 46 Vict. c. 49, such order may be made "in case of imminent national danger or of great emergency," by the Queen in council by proclamation, the occasion first being communicated to Parliament, if sitting.

(*m*) Compare 34 & 35 Vict. c. 86, "the Regulation of the Forces Act, 1871," s. 16, ante, p. 305, whereby on emergency the Government may take possession of any railroad or railroad plant.

traffic as may be specified in the warrant shall be received and forwarded on the railway in priority to any other traffic, and the company shall comply with such warrant, and shall, so far as may be necessary, suspend the receiving and forwarding of all other traffic on such railway.

Penalty for refusal or obstruction.

(3) If a director of or person employed by a railway company refuses or fails to comply with the exigency of the warrant, or obstructs the carrying thereof into effect, he shall be liable on summary conviction to a fine not exceeding fifty pounds, and any such officer as aforesaid may take such means as seem to him necessary for carrying (and if need be, by force) the warrant into effect.

(4) A warrant issued in pursuance of this section shall not be in force for more than one month after the date thereof unless renewed.

(5) An order made by her Majesty in pursuance of this section may be revoked by her Majesty at any time, and upon the militia being ordered to be disembodied shall cease to operate.

Remuneration.

(6) There shall be paid, out of moneys provided by parliament, to a railway company required to receive and forward traffic in pursuance of this section, such reasonable remuneration as may be agreed upon, or in default of agreement may be determined by arbitration.

Compensation.

(7) If any person suffers any loss by reason of anything done under the authority of a secretary of state or the admiralty in pursuance of this section, he may petition the secretary of state or the admiralty for compensation, and the secretary of state or admiralty may pay out of moneys provided by parliament such reasonable compensation as may seem just; but no such compensation shall be paid in respect of any loss arising under a contract which was made subsequently to the date of an order under this section, or which, though made before, might have been determined subsequently to that date.

Definitions.

(8) For the purposes of this section—

"Secretary of State."

The expression "secretary of state" means one of her Majesty's principal secretaries of state; and

"Admiralty."

The expression "admiralty" means the commissioners for executing the office of lord high admiral; and

"Railway."

The expression "railway" includes any tramway, whether worked by animal or mechanical power, or partly in one way and partly in the other; and

"Person."

The expression "person" includes any person or body of persons, corporate or unincorporate; and

"Railway company."

The expression "railway company" means any person as above defined who as owner or lessee of a railway or otherwise is actually engaged in working a railway; and

"Traffic."

The expression "traffic" includes persons, animals, goods, and things of every description which are ordinarily carried, or are required by virtue of this act to be received and forwarded on a railway.

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## 51 & 52 VICT. CAP. 48.

*An Act to amend the Companies' Clauses Consolidation Act, 1845, in respect to voting by proxy.* [24th December, 1888.

Be it enacted as follows:—

Short title.

1. This act may be cited as the Companies' Clauses Consolidation Act, 1888, and the Companies' Clauses Consolidation Act, 1845, and this act

may be cited together as the Companies' Clauses Consolidation Acts, 1845 and 1888; and this Act shall be construed together with the said act as part thereof.

Member of body corporate being shareholder, may be proxy.

2. To section seventy-six of the Companies' Clauses Consolidation Act, 1845, the following words shall be added: "Provided, that where the shareholder is a member of a body corporate (*n*), the proxy may be any member of such body, though not personally a shareholder in the company."

Proxy to be taken to be shareholder.

3. Such a proxy shall, during the continuance of his appointment, be taken in virtue thereof to be a shareholder in the company to which his appointment relates, holding the number of shares held by the corporation by whom he is appointed, for all purposes except the transfer of any such share or the giving receipts for any dividend thereon.

Forms of proxy papers.

4. The appointment may be made and revoked in the following form:—

## Forms of Proxy Papers.

### 1. *General Appointment.*

We, the , being a body corporate, and one of the proprietors of the company, hereby appoint A. B., of , who is hereby certified to be a member of this corporation, to be our proxy, to vote in our name as he shall think proper upon any matter relating to the several undertakings proposed at any meeting of the said company to be held during the continuance of this appointment, and otherwise to be our representative in such company.

In witness whereof the common seal of the said corporation, attested as is required by its regulations, is hereto set this day of .

### 2. *Revocation of General Proxy.*

We, the , hereby revoke the appointment of , of , who is our proxy in the company, made by an instrument under our common seal, and dated the day of .

In witness whereof the common seal of the said corporation, attested as is required by its regulations, is set hereto the day of .

[An instrument in this form shall not require any stamp.]

### 3. *Special Appointment.*

We, the , being a body corporate, and one of the proprietors of the company, do hereby appoint A. B., of , who is hereby certified to be a member of this corporation, to vote in our name as he shall think proper upon any matter relating to the said undertaking proposed at the meeting of the proprietors of the said company to be held on the day of next, or at any adjournment thereof.

In witness whereof the common seal of the said corporation, attested as is required by its regulations, is set hereto this day of .

(*n*) The words "*a member of a* body corporate" appear to have been inserted by mistake for "a body corporate." It is submitted that the mistake may be corrected by reference to Form No. 1, and that the words "member of a" may be rejected as insensible.

# 51 & 52 VICT. CAP. 58.

*An Act to continue the Employers' Liability Act,* 1880.
[24th December, 1888.

Be it enacted as follows :—

Continuance of Employers' Liability Act.

1. The Employers' Liability Act, 1880 (*o*), shall be continued until the thirty-first day of December one thousand eight hundred and eighty-nine.

(*o*) 43 & 44 Vict. c. 42, ante, p. 327.

# STATUTORY RULES AND FORMS, &c.

## IRISH BYE-LAW AGAINST GAMBLING (a).

18. Gambling and games of chance are strictly prohibited in the company's carriages, stations, and premises. Every person taking part therein, or soliciting any other person to play any such game of chance, is hereby subjected to a penalty not exceeding *five pounds*, and shall immediately, or if travelling at the first opportunity, be removed from the company's premises or carriages.

## DOCUMENTS TO BE SENT TO THE RAILWAY DEPARTMENT, BOARD OF TRADE,

PREVIOUSLY TO THE SECOND NOTICE OF THE INTENTION TO OPEN A RAILWAY BEING GIVEN (b).

I. A copy of the parliamentary plan and section, with any deviations which may have been made during construction marked thereon in red; and with the corrections in the distances, levels, inclinations, sections of ground, and radii of curves, rendered necessary by such deviations, also marked in red; as well as the POSITIONS OF THE SEVERAL STATIONS, AND THE LENGTHS AND HEIGHTS OF THE PLATFORMS; and the widths of cuttings and embankments on each side of the railway.

II. A table of gradients and level portions, with the positions of the stations distinctly shown.

III. A table of curves and straight portions.

IV. A table of cuttings and embankments.

V. A table of the bridges for roads and railways crossed by the railway.

VI. A table of the bridges and viaducts over watercourses and valleys.

VII. A table of all level crossings, public, occupation, private and bridle roads, or foot-ways.

VIII. A table of tunnels.

IX. A table of aqueducts and of culverts 3 feet or more in diameter.

[II.–IX.] According to the forms forwarded herewith, observing that the situations of works, &c., should be described in each by reference to the same fixed point; and that it will be convenient if the station nearest to the metropolis, for a main line, or the junction with the main line for a branch railway be adopted as such point of reference.

X. A statement affording detailed information under the following heads:—

(a) The remaining bye-laws, and also the Scotch bye-laws are similar to the English set out in vol. I., at p. 509.

(b) See 5 & 6 Vict. c. 55, ante, p. 15, and vol. I. ch. X. sect. 7.

1. *Permanent Way.*—Whether the line be double throughout, or partly double and partly single, or single throughout with sidings; the distances from the fixed point adopted in the tables, at which the single portions commence and terminate—or, for a single line, at which the sidings commence and terminate; whether the land has been purchased for an additional line of rails, or whether any other arrangements have been made with a view to adding an additional line at a future period; the width of the line at formation level; the gauge; the width between the lines where double; the description of rails employed, with a diagram section, their length, and weight per yard; the description and weight of the chairs, where these are employed; the mode of fixing the chairs and securing the rails; the fastenings adopted for the joints of the rails; the description of sleepers, with their smallest and average scantling and length; their distances from centre to centre if transverse; and if longitudinal the details of any ties by which they are connected; the nature of the ballast, and its depth below the under surface of the sleepers; the description of points adopted; the number and positions of all facing points connected with the main line; and the names of the stations or other places at which engine-turntables are provided.
2. *Fences.*—Description of fencing adopted on each portion of the line, especially the height of the rails, and distance between post, if post and rail; the height, number of wires, distance between supports, and means of straining, in the case of wire fencing.
3. *Drainage.*—General description of the drainage employed; and if, on any part of the line, it has been attended with peculiar difficulty, a detailed description should be given.
4. *Stations.*—Their names, and their distances, at the commencement and termination, respectively, from the fixed point; the gradients on which they are situated and approached; the length of the platforms and their height above the level of the rails; and the positions of and distances between the home and the distant-signals.
5. *Width of Line.*—The minimum space allowed from a height of 2 feet 6 inches above the rails, between the sides of the widest carriages in use upon the railway and any fixed works, such as pillars and walls at stations, abutments, piers, supports, arches, girders, telegraph posts, sheds, &c., along the line. The minimum section of each tunnel should be appended, showing within it a section of the widest carriage to be used on the line.
6. *Bridges and Viaducts.*—Drawings in detail of all bridges and viaducts, either over or under the railway, accompanied by sufficient information to allow of the probable strength of each being ascertained by calculation; and by sections showing the distances between the girders and the sides of the widest carriages to be used on the line, when the girders are more than 2 feet 6 inches above the level of the rails.
7. Diagrams of all junction and station arrangements.

XI. *Carriages to be used for the Conveyance of Cheap Train Passengers.*—The following *minimum* dimensions should be observed in the construction of these carriages:—They should contain 20 cubic feet of space per passenger; the area of the glass windows should afford 60 superficial inches per passenger; they should be provided with proper means of ventilation, and with at least one lamp to each compartment of each carriage; the seats should be provided with backs, should be 15 inches broad, and should afford 18 inches in width per passenger. Drawings of these carriages, to a scale of not less than 4 feet to an inch, should be supplied, viz.:—

1. An outside elevation, showing the positions of the windows, ventilators, and lamps.

2. A transverse section.

3. An inside plan, showing the arrangements of the several seats, with references by letters, specifying the width and length of each seat, and the number of passengers to be accommodated on each; also a memorandum of the size of the windows and ventilators, stating whether they are fixed or constructed to open and close, and the positions of the lamps for lighting the carriages at night.

### B.—Memorandum of Important Requirements.

1. The requisite apparatus should be provided at the period of inspection for ensuring an adequate interval of space between following trains.

2. Home-signals and distant-signals for each direction should be supplied at stations and junctions; with extra signals for such sidings as are used either for the arrival or for the departure of trains.

3. The levers by which points and signals are worked should be brought close together, into the position most convenient for the person working them, and should be interlocked. The points should be provided with double connecting rods. Point levers should be sufficiently long to enable the pointsmen to work them without risk or inconvenience, and should not be placed on the ground between the lines of rails. Any signal which is worked by a wire or rod should be so weighted as to fly to or remain at "danger" on the fracture of the wire or rod.

4. The levers by which points and signals are worked should, as a rule, be brought together under cover upon a properly constructed stage, with glass sides inclosing the apparatus. They should be so arranged that while the signals are at danger the points shall be free to move; that a signalman shall be unable to lower a signal for the approach of a train, until after he has set the points in the proper direction for it to pass; that it shall not be possible for him to exhibit at the same moment any two signals that can lead to a collision between two trains; and that, after having lowered his signals to allow a train to pass, he shall not be able to move his points so as to cause an accident, or to admit of a collision between any two trains. The facing points should be provided with apparatus which will ensure the points being in their proper positions before the signals are lowered, and which will prevent the signalman from shifting the points whilst a train is passing them, and, as an additional precaution, means should generally be provided for detecting any failure in the connections between the signal cabins and the points. Every signalman should be able to see the arms and the lights of the home as well as of the distant signals, and the working of the points or of the indicators showing their position, the back lights of the lamps being made as small as possible, having regard to efficiency. When the front lights are visible to the signalman in his cabin no back lights should be provided. The fixed lights in the signal-cabins should be screened off, so as not to be mistakeable during fogs for the signals exhibited to control the running of trains. If, from any unavoidable cause, the arm or light of any signal cannot be seen by the signalman, a repeater should be provided in the cabin. Clocks should be placed in conspicuous positions for the use of the signalmen.

5. Facing points should be avoided as far as possible, but when used they should be secured by facing point locks and locking bars; the length of the locking bars should exceed the greatest distance between the adjacent wheels of passengers' carriages, and the stock rails should be tied to gauge with

iron or steel ties. When facing points cannot be dispensed with, they should be placed as near as possible to the levers by which they are worked or bolted, and in no instance at a greater distance than 180 yards from those levers. All points, whether facing or trailing, should be worked or bolted by rods and not by wires.

6. It being necessary that a uniform system of signals should be adopted on all railways, the semaphore arms should, at junctions, be on separate posts or on brackets; and at stations, when there is more than one arm on one side of a post, they should be made to apply,—the first or upper arm to the line on the left, the second arm to the line next in order from the left, and so on; but in cases where the main or more important line is not the one on the left, separate signal posts should be provided, or the arms should be on brackets. The distant-signals should be distinguished by notches cut out of the ends of the semaphore arms where such are employed. In no case should a distant-signal arm be placed above a home-signal arm on the same post for trains going in the same direction. In the case of sidings, a low and short arm, distinct from the arm or arms for the passenger lines, may be employed.

7. The junctions between passenger lines and goods and mineral lines and sidings should be protected by home and distant signals. The sidings should be so arranged, that the shunting carried on at them shall present the least possible obstruction to the passenger lines. There should be safety points upon each goods and mineral line and siding, with the points closed against the passenger lines and interlocked with the signals. In the case of sidings joining single lines on favourable gradients, where the train staff and ticket system is in use for working the traffic, a key attached to the staff may be used for opening the sidings, and signals may be dispensed with.

8. When a junction is situated near to a passenger station, or is connected with goods or mineral sidings, the platforms and sidings should be so arranged as to prevent, as far as possible, any necessity for shunting over the junction.

9. The junctions of all railways should, in ordinary cases be formed as double-line junctions.

10. The lines of railway leading to the passenger platforms should be so arranged that the engines, as they arrive at and depart from a station, shall always be in front of the passenger trains; and that, in the case of double lines or of passing places on single lines, each line shall have its own platform.

11. Platforms should be continuous, and not less than 6 feet wide for stations of small traffic, nor less than 12 feet wide for important stations; the descent at the ends of the platforms should be by ramps, and not by steps. Pillars or columns, for the support of roofs or other fixed works, should not be nearer to the edge of the platform than 6 feet. It is considered desirable that the height of the platforms above the rails should not be less than 2 feet 6 inches. The lines should be laid down so as to leave as little space as possible between the edges of the platforms and those of the continuous footboards on the carriages. Shelter should be provided on every platform, and conveniences where necessary.

Foot-bridges over or subways under the line should be provided for passengers to cross the railway at all stations of any importance.

12. When stations occur on or near a viaduct or bridge under the railway, a parapet or fence on each side should be provided, sufficient to prevent passengers falling from the viaduct or bridge in the dark. Viaducts under the railway should be provided with handrails and with projecting platforms for the protection and escape of the platelayers. Viaducts of timber and iron should be provided with manholes and other facilities for inspection.

13. The steps of staircases approaching stations, and of foot bridges over the lines, and of foot-subways, should not be less than 11 inches in the tread, nor more than 7 inches in the rise, and all such staircases should be provided with efficient handrails.

14. Clocks should be provided at all stations in positions visible from the line.

15. Turntables for the engines, of sufficient diameter to enable the longest engines and tenders in use on the line to be turned without being uncoupled, should be erected at terminal stations, and at junctions and other places at which the engines require to be turned, except in cases of short lines not exceeding 15 miles in length, where the stations are not at a greater distance than 3 miles apart, and the railway company is willing to give an undertaking to stop all trains at all stations. Care should be taken to keep all turntables at safe distances from the adjacent lines of rails, so that engines, waggons, or carriages, when being turned, may not foul other lines, or endanger the traffic upon them.

16. No station should be constructed, and no siding should join a passenger line, on a steeper gradient than 1 in 260, except where it is unavoidable. When the line is double, and the gradient at a station or siding-junction is necessarily steeper, and when danger is to be apprehended from vehicles running back, a catch-siding, with points weighted for the siding, should be provided further down the incline than the passenger platform, siding-junction, or goods-yard, to intercept runaway vehicles. Under similar circumstances, when the line is single, in the case, 1st, of a station, a second line should be laid down, a second platform should be constructed, and a catch-siding similarly provided; and in the case, 2nd, of a siding-junction, means should be provided for placing the whole train in sidings, clear of the main line before any shunting operations are commenced.

17. Cast-iron must not be used for railway under-bridges, except in the form of arched ribbed girders, where the material is in compression.

In a cast-iron arched bridge, or in the cast-iron girders of an over-bridge, the breaking weight of the girders should be not less than three times the permanent load due to the weight of the super-structure, added to six times the greatest moving load that can be brought upon it.

In a wrought-iron or steel bridge the greatest load which can be brought upon it, added to the weight of the super-structure, should not produce a greater strain on any part of the material than five tons, where wrought-iron is used, or six tons and a half, where steel is employed, per square inch.

The engineer responsible for any steel structure should forward to the Board of Trade a certificate to the effect that the steel employed is either cast steel, or steel made by some process of fusion subsequently rolled or hammered, and of a quality possessing considerable toughness and ductility, together with a statement of all the tests to which it has been subjected.

18. The heaviest engines, boiler trucks, or travelling cranes in use on railways afford a measure of the greatest moving loads to which a bridge can be subjected. These rules apply equally to the main and the tranverse girders.

19. It is desirable that viaducts should, as far as possible, be wholly constructed of brick or stone, and in all such cases they should have parapet walls on each side, not under 4 feet 6 inches in height above the level of the rails, and not less than 18 inches thick.

Where it is not practicable to construct the viaducts of brick or stone, and iron or steel girders are made use of, it is considered best that in important viaducts the permanent way should be laid between the main

girders. If, however, in such viaducts the main girders are placed below the level of the rails, substantial parapets not under 4 feet 6 inches in height must be provided. In important viaducts, substantial guards should be fixed outside, above the level of and as close to the rails as possible, but not so as to interfere with the steps or any of the working parts of the engine or trains.

Where iron is made use of for the construction of the abutments or piers which are intended to support or carry the iron girders of high bridges and viaducts, it must be distinctly understood that these abutments or piers should not consist of cast-iron columns of small size, such as 12, 15, or 18 inches in diameter.

In all large structures of this kind the stability of the work must be such as will provide for a wind pressure of 56 lbs. on the square foot.

20. All castings for use in railway structures should, where practicable, be cast in a similar position to that which they are intended to occupy when fixed.

21. The upper surfaces of the wooden platforms of bridges and viaducts should be protected from fire.

22. The joints of the rails should be secured by means of fish-plates, or by some other equally secure fastening. The weight of the cast-iron chairs on branch lines, or lines on which the traffic will be small and light, and where it will be worked by engines of ordinary construction, should not be less than 26 lbs. each; but on main lines, and where heavy traffic may be worked at high speeds, the chairs should weigh not less than 35lbs.

23. When chairs are used to support the rails they should be secured to the sleepers, at least partially, by iron spikes or bolts. With flat-bottomed rails, when there are no chairs, or with bridge rails, fang or other through-bolts should be used, at least at the joints and at some intermediate places.

24. No standing work (other than a passenger platform) should be nearer to the side of the widest carriage in use on the line than 2 feet 4 inches, at any point between the level of 2 feet 6 inches above the rails and the level of the upper parts of the highest carriage doors. This applies to all arches, abutments, piers, supports, girders, tunnels, bridges, roofs, walls, posts, tanks, signals, fences, and other works, and to all projections at the side of a railway constructed to any gauge.

25. The intervals between adjacent lines of rails, or between lines of rails and sidings, should not be less than 6 feet.

26. At all level crossings of public roads the gates should be so constructed as to close across the railway, as well as across the road, at each side of the crossing, and a lodge or station house should be provided, as is required by Act of Parliament. The gates should not be capable of being opened at the same time for the road and the railway, and all sidings and connections should be placed so that the shunting can be done without interfering with the level crossing. When a level crossing occurs at a station, there should be a box, if there is not a lodge, at the gates, for the use of the gate-keeper, unless the gates are worked from a signal cabin. Wooden gates are considered preferable to iron gates for closing across the railway.

27. Where public roads are crossed on the level, signals in one or both directions, interlocked with the gates, and a foot-bridge over or a subway under the line may be required. At public footpath level crossings a foot-bridge over or a subway under the line may be required.

28. Mile-posts and quarter and half-mile posts and gradient-boards should be provided along the line.

29. Tunnels and long viaducts should in all cases be constructed with recesses for the escape of the platelayers.

30. In all curves where the radius is 10 chains or less, a check-rail should be placed inside the inner rail of the curve.

## C.—Modes of Working Single Lines.

In the case of a line being single, a certificate, under the seal, and signed by the Chairman and Secretary of the Company, should be sent to the Board of Trade, through the inspecting officer, to the effect that one of the two following modes of working single lines will be adopted, namely:—

I. That only one engine in steam, or two or more engines coupled together shall be allowed to be upon the single line at one and the same time.

II. That the line shall be worked by Train-Staff, in the mode described in the following amended regulations, combined with the absolute block-telegraph system:—

*Rules for Working the Single Line between A., B., C., &c.*

1. Either a train-staff or a train-ticket is to be carried with each engine or train to and fro, and for this purpose

[One, two, or more] train-staffs and sets of train-tickets will be employed, viz.:—

| | Colour of Staff. and Ticket. | Form of Staff. and Ticket. |
|---|---|---|
| One between A. and B. . . . . | Red. | Square. |
| One between B. and C. . . . . . | Blue. | Round. |
| &c. &c. . . . . . | &c. | &c. |

2. *No engine or train is to be permitted to leave or pass either of the staff-stations, A., B., or C., unless the staff for the portion of line over which it is to travel is then at the station; and no engineman is on any account to leave or pass a staff-station without seeing such train-staff.*

3. If no second engine or train is intended to follow, the staff is to be given to the engineman or guard.

4. If other engines or trains are intended to follow before the staff can be returned a train-ticket, stating "staff following," is to be given to the engineman of the leading engine, or the engineman or guard of the leading train, and so on with any other except the last, the staff itself being sent with the last. After the staff has been sent away, no other engine or train is to leave the staff-station under any circumstances whatever until its return.

5. The train-tickets are to be kept in a box fastened by an inside spring, and the key to open the box is the train-staff, so that a ticket cannot be obtained without the train-staff. The train-staff is to lock the box in being taken out of it.

6. The train-staffs, the train-tickets, and the ticket-boxes are to be painted or printed in different colours, red for the line between A. and B.; blue for that between B. & C., &c.; the inside springs and the keys on the staffs being so arranged that the red staff cannot open the blue box, nor the blue staff the red box, and so forth. This is to prevent mistakes.

7. The ticket-boxes are to be fixed by brackets in the booking-offices at the staff-stations, the brackets being turned up at the ends to receive the train-staffs when they are at the stations.

8. The station master, the clerk in charge, the inspector, or the person in charge for the time at a staff-station, is the sole person authorised to receive, exhibit, or deliver the staff or ticket.

9. The usual special train tail-signal, "engine following," is to be used when a ticket is given, for the guidance of the platelayers and gatekeepers upon the line.

10. When a ballast train has to work on the line, the staff is to be given to the engineman or guard in charge of it. This will close the line whilst the ballast train is at work. The ballast train must proceed afterwards to one of the staff-stations to open the line before the ordinary traffic can be resumed.

11. In the event of an engine or train breaking down between two staff-stations, the fireman is to take the train-staff to the staff station in the direction whence assistance may be expected, that the staff may be at that station on the arrival of an engine. Should the engine or train that fails be in possession of a train-ticket instead of the staff, assistance can only come from the station at which the train-staff has been left. The fireman will accompany any assisting engine to the place where he left his own engine.

*N.B.*—The train-staff may either be fixed in a socket on the engine or tender or carried over the shoulder by means of a cross-belt.

## D.—Precautions Recommended in the Working of Railways.

1. There should be a break-vehicle with a guard in it at the tail of every train; this vehicle should be provided with a raised roof and extended sides, glazed to the front and back; and it should be the duty of the guard to keep a constant look-out from it along his train.

2. All passenger carriages should be provided with continuous footboards extending throughout the whole length of each carriage and as far as the outer ends of the buffer castings. As passenger carriages now pass from one company's line to another's, it is essential for the public safety that although the widths of the carriages on the different lines differ from each other, the widths across the carriages from the outside of the continuous footboard on one side to the outside of the continuous footboard on the opposite side should be identical for the carriages of all railway companies, so that the lines of rails may be laid at the proper distance from the edges of the passenger platforms.

3. There should be means of intercommunication between a guard at the tail of every passenger train and the engine driver, and between the passengers and the servants of the company, as required by the Legislature.

4. Continuous breaks under the control of the engine driver and each guard should be employed with all passenger trains. In the opinion of the Board of Trade, which has been fully expressed in recent correspondence, due security will not have been taken for the public safety until some system or systems of continuous breaks has or have been universally adopted, instantaneous in action, capable of being applied by engine driver or guard, and automatic in case of accident.

5. The tyres of all wheels should be so secured to the rims of the wheels as to prevent them from flying open when they are fractured.

6. The engines employed with passenger trains should be of a steady description, with not less than six wheels, with a long wheel-base, with the centre of gravity in front of the driving wheels, and with the motions balanced. They should not be run tender or tank first.

7. Records should be carefully kept of the work performed by the wearing parts of the rolling stock, to afford practical information in regard to them, and to prevent them from being retained in use longer than is desirable.

8. All lines should be worked on the block telegraph system. In case of junctions the block system should be employed for preventing trains, which can come into collision through overrunning signals, from approaching a junction simultaneously. The signal cabins should be commodious, and should be supplied with clocks, with record books, with a separate needle for signalling the trains on each line of rails, and with an extra needle or telephone for other necessary communications between the signalmen. The point levers, signal levers, and block instruments should be so placed in the cabins that signalmen when working them should have the best possible view of the railway.

9. When drovers or other persons are permitted to travel with goods or cattle trains, suitable vehicles should be provided for their accommodation near the front of such trains.

10. Luggage should not be carried on the roofs of railway carriages.

11. The names of the stations should be marked on the lamps, besides being shown on other conspicuous places.

HENRY G. CALCRAFT.

BOARD OF TRADE (RAILWAY DEPARTMENT),
*December*, 1885.

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## ADDITIONAL RULE MADE BY THE BOARD OF TRADE,

UNDER RAILWAYS CONSTRUCTION FACILITIES ACT, 1864.

The promoters shall on or before the 30th June or 30th November (as the case may be) immediately following the application to the Board of Trade for a certificate under the Railways Construction Facilities Act, 1864, deposit a copy of the plan, section, book of reference, and Gazette notice which are required by the said Act, at all such offices as under the Standing Orders of Parliament they would be required to deposit the same, if the promoters, instead of applying for a certificate, were proceeding by private Bill.

HENRY G. CALCRAFT.

THE BOARD OF TRADE (RAILWAY DEPARTMENT),
WHITEHALL GARDENS, *July*, 1883.

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# WORKING OF "LIGHT RAILWAY."

[*After setting out ss.* 27–29 *of the Regulation of Railways Act,* 1868 (*ante, p.* 283), *the Board of Trade Regulations proceed as follows :*—]

Application to the Board of Trade for a licence under the foregoing sections, to construct and work a railway as a light railway is to be made in writing, by or on behalf of the company, stating the grounds on which the licence is desired.

The application should be accompanied by the following documents, viz. :

I. The Act or certificate authorising the construction of the railway.

II. A copy of the Parliamentary plan and section, with any deviations which, in the construction of the railway as a light railway, it may be desired to make, marked thereon in red ; the corrections in the distances, levels, inclinations, sections of ground, and radii of curves, rendered necessary by such deviations, being also marked in red, as well as the intended positions of the several stations, and the length of the platforms on the section.

The proposed width of cuttings and embankments on each side of the railway also to be marked on the plan (*a*).

III. A table of gradients and level portions with the positions of the stations distinctly shown.
IV. A table of curves and straight portions.
V. A table of cuttings and embankments.
VI. A table of all proposed level crossings, public, occupation, or private; bridle, or footways.
VII. A table of tunnels.

Forms of these tables can be furnished by the Board of Trade, on application.

VIII. A statement affording detailed information under the following heads:—

1. *Permanent Way.*—Whether the line is to be double throughout, or partly double and partly single, or single throughout with sidings; the distances from the fixed point adopted in the tables at which the single portions commence and terminate—or, for a single line at which the sidings commence and terminate; if the line is to be a single line, whether the land has been purchased, or whether any other arrangements have been made, with a view to adding an additional line at a future period; the width of the line at formation level; the gauge; the width between the lines where double; the description of rails to be used, with a diagram section, their length and weight per yard; the description and weight of the chairs, where these are to be used; the mode of fixing the chairs and securing the rails; the fastenings to be adopted for the joints of the rails; the description of sleepers, with the following particulars if they are to be of timber, viz., their smallest and average scantling and length; their distance asunder if transverse, and if longitudinal, the details of any ties by which they are to be connected; if sleepers of cast or malleable iron are to be used, a sufficient drawing or model showing connections, &c.; the nature of the ballast to be used, and its depth below the under surface of the sleepers.
2. *Rolling Stock.*—Descriptions of the engines proposed to be used on the line, giving, where the engines are to be of the ordinary construction, the size of the cylinders, diameters of the wheels, and length of the wheel-base, and stating weight on each pair of wheels, and the total weight. Where engines not ordinarily used are proposed, an outline drawing is to accompany the written description. Description and weight when fully loaded of the heaviest carriage, truck, or other vehicle which is to be admitted upon the line, and statement of the greatest width of any passenger carriage.
3. Proposed maximum speed at which the traffic is, under the penalties prescribed by the act, to be worked.
4. Estimate of the traffic to be carried over the line in passengers, cattle, goods, or minerals.
5. Estimate of the saving under the heads of earthwork, bridges, permanent way, and miscellaneous, to be effected by substituting a light railway for the railway authorised by Parliament.

If the Board of Trade entertain the application, they will require notice to be inserted once in each of two consecutive weeks in the newspaper or

(*a*) Where the deviations in the levels exceed the limits sanctioned by the Railway Clauses Act, 1845, 8 Vict. c. 20, ss. 11 and 12, the consent in writing of the owners of land, or the trustees or commissioners having control of streets or public highways, will have to be obtained in accordance with those sections.

newspapers prescribed in the special Act of the company, or if no newspaper is prescribed, or if the prescribed newspaper has ceased to be published, then in a newspaper published in the county in which the head office of the company is situate.

This notice will be in the following form :—

LIGHT RAILWAYS.

The Railway Company.

APPLICATION TO THE BOARD OF TRADE FOR LICENCE TO .

Notice is hereby given, that the Company have made an application to the Board of Trade under the 27th section of the "Regulation of Railways Act, 1868," for their licence to construct and work [or work] the Railway authorised by the Railway Act, 18 , as a light railway

And notice is hereby further given, that any person, company, or corporation objecting to this application may bring such objection before the Board of Trade, by sending a written statement thereof by post on or before the* day of next, addressed to the Assistant Secretary, Railway Department, Board of Trade, Whitehall, London, S W.

Dated this day of , 18 .

Secretary of the Company.

(*) N.B.—Thirty days from the date of the newspaper containing the last insertion of this notice.

Copies of the newspapers containing this advertisement should be furnished to the Board of Trade.

After the time for making objection has expired, the Board of Trade will consider and determine upon the application for a licence.

No railway licensed to be constructed or worked as a light railway will be allowed to be opened for passenger traffic, until the line has been inspected and the opening recommended by one of the inspecting officers of the Board of Trade.

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## ORDER MADE BY THE BOARD OF TRADE IN PURSUANCE OF THE REGULATION OF RAILWAYS ACT (1871), 34 & 35 VICT. C. 78, S. 6.

Whereas [recital of sect. 6 of the Act of 1871, p. 300, *ante*] it is enacted that—

Now, therefore, the Board of Trade in pursuance of the power by the said section conferred upon them, order that in addition to the notice of accidents specified in sub-sections (1) (2) (3) and (4) above recited, notice in conformity with the provisions of the said section shall be sent to them by every company to which such section applies, of every accident of the nature following, that is to say—

1. As regards the locomotive power and rolling stock :
   *a*. The bursting of a boiler.
   *b*. The failure of a rope used in working an incline.
   *c*. The failure of a wheel or tyre.
   *d*. The failure of an axle.
   *e*. The failure of the hornplate of an engine.
   *f*. The failure of the axle-guard of any vehicle in a passenger train.
   *g*. The failure of breaks used in passenger trains.
   *h*. The failure of any other part of locomotive engines, tenders, or vehicles not included in the above, which leads to an accident to a passenger train.

*Note.*—Any return of the failure of a boiler, a tyre, or an axle, should be accompanied by a diagram with particulars of construction and failure, and by a description of the nature of the materials it was made of, and the amount of work it had performed. In the case of a tyre, the mode employed of fastening it on the wheel, and the results of its failure as to the number of pieces into which it broke, and whether it remained on or flew off the wheel when it broke, should be particularly specified.

2. As regards the permanent way and works:

*i.* The fracture of a rail in the permanent way of a passenger railway.

*k.* The "bursting" of the permanent way under a train on a passenger railway.

*l.* The failure of a bridge, viaduct, or large culvert, or of any part of any of them.

*m.* The failure of a tunnel or of any part of it.

*n.* The failure of the roof or any important part of a station.

*o.* Important slips in cuttings or embankments.

*p.* The failure of a revetment wall.

*q.* The flooding of a portion of permanent way.

*r.* The failure of any other portion of the permanent way or works not included in the above, which leads to an accident to a passenger train.

*Note.*—In any return of the fracture of a rail it should be stated of what material it was made, with the weight per lineal yard, and whether it had or had not been turned at the time it broke. A diagram showing the section should also be forwarded.

3. Miscellaneous, such as—

*s.* A train travelling in the wrong direction through points on the main line of a passenger railway.

*t.* An engine or train running over any horse, beast, or other obstruction, or through the gate or gates of a level crossing on a passenger railway.

*u.* Any fire in any part of a train, or at a station, or involving injury to any bridge or viaduct on a passenger railway.

Every notice sent to the Board of Trade in pursuance of the foregoing provisions of the said section shall be in the form hereto annexed or as near thereto as circumstances admit.

C. B. ADDERLEY.

BOARD OF TRADE,
14*th November*, 1874.

## FORM REFERRED TO IN THE FOREGOING ORDER.

________________ RAILWAY COMPANY.

RETURN directed to be made to the Board of Trade of accidents occurring in the course of the Public Traffic, whether attended with personal injury or not (in compliance with the Regulation of Railways Act, 1871, sect. 6).

| Date of Accident. | Nature and Cause of Accident, and Place where it occurred; and if the Accident happened to a train belonging to a Company other than the Company owning or working the Railway, the Name of such Company. | Particulars of Damage to Trains or Works. | PARTICULARS OF INJURY TO PERSONS. | | | | | REMARKS. |
|---|---|---|---|---|---|---|---|---|
| | | | Name of Person. | Nature of Injury. | Description, stating whether Passenger, Servant of the Company, or of Contractor (if a Servant, specify the class of Service to which he may belong), Persons crossing at Public or Private Level Crossings (specifying which) or Trespassers. | Whether Accident occurred from Causes beyond the control of the persons injured, or from their own want of Caution or Misconduct. | * Copy of Verdict at Coroner's Inquest (if in England, Wales, or Ireland) should death have ensued. | |
| | | | | | | | * To be transmitted to the Board of Trade, as early as possible, should the verdict not be given before the expiration of the time specified in the Act within which the Company is to make the Return. | |

## SCHEDULE I. OF THE REGULATION OF RAILWAYS ACT, 1871.

[By s. 32 of the Railway and Canal Traffic Act, 1888 (p. 356, ante), these Forms are subject to alteration by the Board of Trade.]

### SCHEDULE ONE.

RETURNS.—FORM I.

RETURN in pursuance of , by the Railway Company, of their authorised share and loan capital, and the sums received in respect of their ordinary capital, and preferential capital, and debenture stock, or funded debt, on the 31st December, 18 , specifying the rate per cent. of the dividends for the year 18 , on each of the said capitals, showing also the loans outstanding on the 31st December, 18 , classified according to the several rates per cent. of interest, and the capital subscribed to other undertakings, whether such undertakings are on lease to, or worked by, the subscribing company, or are independent.

| NAME OF COMPANY. | * Authorised Capital up to the 31st December, 18 , including Capital authorised as Subscriptions to other Undertakings, whether such Undertakings are on lease to, or worked by, the Subscribing Company, or are independent. | | | Paid-up Stock and Share Capital at 31st December, 18 , including Subscriptions paid up to other Undertakings | | | | | | | | | Capital raised by Loans and Debenture Stock at 31st December, 18 . | | | | | Total Stock and Share Capital paid up and Capital raised by Loans and Debenture Stock at 31st Dec. 18 . | Subscriptions to other Companies. | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | † By Shares. | By Loans. | Total | Ordinary. | Rate per Cent. of Dividend. | Guaranteed. | Guaranteed Rate of Dividend. | Rate of Dividend paid. | Preferential. | Preferential Rate of Dividend. | Rate of Dividend paid | Total paid-up Stock and Share Capital at 31st Dec. 18 . | Loans. | Rate of Interest. | ‡ Debenture Stock | Rate of Interest. | Total raised by Loans and by Debenture Stock at 31st Dec. 18 . | | | |
| | £ | £ | £ | £ | | £ | | | £ | | | £ | £ | | £ | | £ | £ | £ | |

NOTE.—This return should be dated and signed by the officer or officers of the company responsible for its correctness.

* This should include all capital authorised to be raised by Acts of Parliament, or by certificates of the Board of Trade under "The Railway Companies Powers Act, 1864;" but should not include capital authorised only for purposes which have lapsed by abandonment or otherwise.

† In cases where a subscription is authorised out of *existing* capital, no addition should be made in respect of it to the sum entered in this column, but only to the sum entered in the last column.

‡ Care should be taken not to confound debenture *stock* with ordinary debenture *loans*, and not to enter the same sum under both heads.

FORM II.

**RETURN** in pursuance of ———, of the TRAFFIC in Passengers and Goods, during the Year ending 31st December, 18 ,* upon the ——— Railway, and upon the †——— Railways belonging to, worked, or leased by the ——— Railway Company.

| NAME OF COMPANY. | Length of Line open on 31st December, 18 .‡ | | | Passenger Traffic. Number of Passengers conveyed. (Exclusive of holders of Season and Periodical Tickets) § | | | | Passenger Traffic. | Goods Traffic. | | Number of Miles travelled by Trains. | | | Receipts (Gross) from Passenger Traffic. Receipts from Passengers. | | | | | Receipts (Gross) from Passenger Traffic. | | | Receipts (Gross) from Goods Traffic. | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Double Miles. | Single Miles. | Total Miles. | 1st Class. | 2nd Class. | 3rd Class (including Parliamentary.) | Total. | Holders of Season or Periodical Tickets.‖ | Minerals. | General Merchandise. | By Passenger Trains. | By Goods and Mineral Trains. | Total | 1st Class. | 2nd Class. | 3rd Class (including Parliamentary) | Holders of Season or Periodical Tickets. | Total from Passengers. | Total Receipts from Excess Luggage, Parcels, Carriages, Horses, Dogs, &c., conveyed in Passenger Trains. | Receipts from Mails | Total Receipts from Passenger Traffic | Merchandise. | Live Stock. | Minerals. | Total Receipts from Goods Traffic. | Miscellaneous Rents, Tolls, Navigation, Steam Boats, &c | Total Receipts from all Sources of Traffic. |
| | | | | | | | | | Tons. | Tons | | | | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | |

NOTE.—This return should be dated and signed by the officer or officers of the company responsible for its correctness.

* If the company's accounts are made up to a period differing from the above the period which this statement embraces should be stated.

† Insert here the names of all railways the traffic of which is included in this statement.

‡ This should not include the length of those lines belonging to other companies over which the company have merely "running powers." It should, however, include half the length of "joint lines."

§ Return tickets to be counted as two passengers, and children as whole passengers.

‖ Insert here the actual number of ticket holders, and not an estimate of the number of journeys performed by them.

### FORM III.

RETURN in pursuance of ——, by the —— Railway Company, of the Working Expenditure and Rolling Stock of the —— Railway and of the ——* Railways, worked or leased by the —— Railway Company.

| NAME OF RAILWAY COMPANY. | Length of Line open on 31st December, 18—.‡ | WORKING EXPENDITURE DURING THE YEAR ENDING 31ST DECEMBER, 18—.† | | | | | | | | | | | | | ROLLING STOCK ON THE 31ST DECEMBER, 18—. | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | | | | Coaching. | | | | |
| | | Maintenance and Renewal of Way and Works. | Locomotive Power (including Stationary Engines). | Repairs and Renewals of Carriages and Waggons. | Traffic Charges (Coaching and Merchandise). | General Charges. | Rates and Taxes.§ | Government Duty. | Compensation for Personal Injury, &c.‖ | Compensation for Damage and Loss of Goods.‖ | Legal and Parliamentary Expenses | Steamboat, Canal, and Harbour Expenses | Miscellaneous Working Expenditure not included in the foregoing. | Total Working Expenditure. | Locomotives. | Carriages used for the Conveyance of Passengers only. | Other Vehicles attached to Passenger Trains. | Waggons of all kinds used for the Conveyance of Live Stock, Minerals, or General Merchandise. | Any other Carriages or Waggons used on the Railway, not included in the preceding Columns. | Total of the five preceding Columns. |
| | Miles. | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | No. | No. | No. | No. | No. | No. |

NOTE.—This return should be dated and signed by the officer or officers of the company responsible for its correctness.

* Here insert the names of the railways included in this statement.

† If the company's accounts are made up to periods differing from the above, the period which this statement embraces should be stated.

‡ This should not include the length of those lines over which the company have merely "running powers." It should, however, include half the length of "joint lines."

§ In the case of Scotch railways "Feu Duties" should not be included under this head, but under that of "Miscellaneous."

‖ "Legal expenses" connected with compensation should not be included under these heads, but under that of "Legal and Parliamentary Expenses."

**N.B.**—This return should include sums paid out of renewal or reserve funds of any kind, and the amounts so paid should be stated under the several heads to which they are applicable. It should not, however, include "interest on loans."

## ORDER IN COUNCIL UNDER THE 106TH SECTION OF THE EXPLOSIVES ACT, 1875 (*a*).

At the Court at Osborne House, Isle of Wight, the 5th day of August, 1875.

Present:

[See p. 323.]

The Queen's Most Excellent Majesty in Council.

Whereas by the 106th section of the Explosives Act, 1875, it is enacted, that it shall be lawful for her Majesty from time to time by Order in Council to define, for the purposes of the said Act, the composition, quality and character of any explosive, and to classify explosives:

Now, therefore, in pursuance of the above-mentioned provision of the said Act, her Majesty is pleased by and with the advice of her Privy Council to order as follows:

For the purposes of the said Act explosives shall be divided into seven classes, as follows:—

| | |
|---|---|
| Class 1 . . . . . . . | Gunpowder. |
| Class 2 . . . . . . . | Nitrate mixture. |
| Class 3 . . . . . . . | Nitro-compound. |
| Class 4 . . . . . . . | Chlorate mixture. |
| Class 5 . . . . . . . | Fulminate. |
| Class 6 . . . . . . . | Ammunition. |
| Class 7 . . . . . . . | Firework. |

And when an explosive falls within the description of more than one class, it shall be deemed to belong exclusively to the latest of the classes within the description of which it falls.

### CLASS 1.—*Gunpowder Class.*

The term "gunpowder" means exclusively gunpowder ordinarily so called.

### CLASS 2.—*Nitrate Mixture Class.*

The term "nitrate mixture" means any preparation other than gunpowder ordinarily so called, formed by the mechanical mixture of a nitrate with any form of carbon or with any carbonaceous substance not possessed of explosive properties, whether sulphur be or be not added to such preparation, and whether such preparation be or be not mechanically mixed with any other non-explosive substance.

The nitrate mixture class comprises such explosives as pyrolithe, pudrolithe, poudre saxifragine and any preparation coming within the above definition.

### CLASS 3.—*Nitro-Compound Class.*

The term "nitro-compound" means any mechanical compound possessed of explosive properties or capable of combining with metals to form an explosive compound, which is produced by the chemical action of nitric acid (whether mixed or not with sulphuric acid), or of a nitrate mixed with sulphuric acid upon any carbonaceous substance, whether such compound is mechanically mixed with other substances or not.

The nitro-compound class has two divisions:

Division 1 comprises such explosives as nitro-glycerine, dynamite, lithofracteur, dualine, glyoxiline, methylic nitrate, and any chemical compound

(*a*) From the London Gazette of the 10th August, 1875.

or mechanically mixed preparation which consists either wholly or partly of nitro-glycerine or of some other liquid nitro-compound.

Division 2 comprises such explosives as gun-cotton ordinarily so called, gun-paper, xyloidine, gun sawdust, nitrated gun-cotton, cotton gunpowder, Schultz's powder, nitro-mannite, picrates, picric powder, and any nitro-compound as before defined which is not comprised in the first division.

### CLASS 4.—*Chlorate Mixture Class.*

The term "chlorate mixture" means any explosive containing a chlorate.

The chlorate mixture class has two divisions:

Division 1 comprises such explosives as Horsley's blasting powder, Brain's blasting powder, and any chlorate preparation which consists partly of nitro-glycerine or of some other liquid nitro-compound.

Division 2 comprises such explosives as Horsley's original blasting powder, Erkardt's powder, Reveley's powder, Hochstadter's blasting charges, Reichen's blasting charges, teutonite, chlorated gun-cotton, and any chlorate mixture as before defined which is not comprised in the first division.

### CLASS 5.—*Fulminate Class.*

The term "fulminate" means any chemical compound or mechanical mixture, whether included in the foregoing classes or not, which from its great susceptibility to detonation is suitable for employment in percussion caps or any other appliances for developing detonation, or which, from its extreme sensibility to explosion and from its great instability (that is to say, readiness to undergo decomposition from very slight exciting causes) is especially dangerous.

This class consists of two divisions:

Division 1 comprises such compounds as the fulminates of silver and of mercury and preparations of these substances, such as are used in percussion caps; and any preparation consisting of a mixture of a chlorate with phosphorus or certain descriptions of phosphorus compounds with or without the addition of carbonaceous matter, and any preparation consisting of a mixture of a chlorate with sulphur, or with a sulphuret with or without carbonaceous matter.

Division 2 comprises such substances as the chloride and the iodide of nitrogen, fulminating gold and silver, diazobenzol and the nitrate of diazobenzol.

### CLASS 6.—*Ammunition Class.*

The term "ammunition" means an explosive of any of the foregoing classes when enclosed in any case or contrivance or otherwise, adapted or prepared so as to form a cartridge or charge for small arms, cannon or any other weapon, or for blasting, or to form any safety or other fuze for blasting, or for shells, or to form any tube for firing explosives, or to form a percussion cap, a detonator, a fog signal, a shell, a torpedo, a war rocket, or other contrivance other than a firework.

The term "percussion cap" does not include a detonator.

The term "detonator" means a capsule or case which is of such strength and construction, and contains an explosive of the fulminate-explosive class in such quantity that the explosion of one capsule or case will communicate the explosion to other like capsules or cases.

The term "safety fuze" means a fuze for blasting which burns and does not explode, and which does not contain its own means of ignition, and

which is of such strength and construction, and contains an explosive in such quantity, that the burning of such fuze will not communicate laterally with other like fuzes.

The ammunition class has three divisions:

Division 1 comprises exclusively safety cartridges; safety fuzes for blasting; railway fog signals; percussion caps.

Division 2 comprises any ammunition as before defined which does not contain its own means of ignition and is not included in Division 1,—such as cartridges for small arms which are not safety cartridges; cartridges and charges for cannon, shells, mines, blasting, or other like purposes; shells and torpedoes containing any explosives; fuzes for blasting which are not safety fuzes; fuzes for shells; tubes for firing explosives; war rockets which do not contain their own means of ignition.

Division 3 comprises any ammunition as before defined which contains its own means of ignition and is not included in Division 1,—such as detonators, cartridges for small arms which are not safety cartridges; fuzes for blasting which are not safety fuzes; fuzes for shells; tubes for firing explosives which do contain their own means of ignition.

By ammunition containing its own means of ignition is meant ammunition having an arrangement, whether attached to it or forming part of it, which is adapted to explode or fire the same by friction or percussion.

CLASS 7.—*Firework Class.*

The term "firework" comprises firework composition and manufactured fireworks.

Division 1.—The term "firework composition" means any chemical compound or mechanically mixed preparation of an explosive or inflammable nature which is used for the purpose of making manufactured fireworks, and is not included in the former class of explosives, and also any coloured fire composition.

Division 2.—The term "manufactured firework" means any explosive of the foregoing classes, and any firework composition, when such explosive or composition is enclosed in any case or contrivance, or is otherwise manufactured so as to form a squib, cracker, serpent, rocket (other than a war-rocket), maroon, star, lance, wheel, Chinese fire, Roman candle, or other article adapted for the production of pyrotechnic effects or pyrotechnic signals.

C. L. PEEL.

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## BYELAWS UNDER THE EXPLOSIVES ACT, 1875.

*BYELAWS made with the sanction of the Board of Trade for the Regulation of the Loading, Unloading, and Conveyance of Explosives on the Railways of the Railway Company (hereinafter called the Company) made under and in pursuance of the Explosives Act, 1875 (38 Vict. c. 17), and every other power and authority vested in the Company.*

(*a.*) The words and expressions used in the following byelaws shall respectively have and include the several meanings assigned to them or defined in "The Explosives Act, 1875," and in the order of her Majesty in Council, dated the 5th of August, 1875, made in pursuance of sect. 106 of the said Act, unless the subject or context otherwise requires.

(*b.*) The term "explosive" means and shall include and apply to every article and substance mentioned as or defined to be an explosive in and by

the 3rd section of the said Act, or the said Order in Council, or any Order in Council which may hereafter be made in pursuance of the said Act.

(*c.*) Where by any of these bye-laws any time is prescribed or allowed for giving any notice to the company, or for the doing of any act by the company, such time shall be computed exclusively of Sunday, Christmas Day, Good Friday, and any statutory Bank Holiday.

1. No carriage containing any explosive which the company shall, by any notice or regulation for the time being in force, notify that they will not receive, forward, or carry, shall be delivered to the company for conveyance, or be brought, sent, or forwarded to or upon any railway of the company.

2. No person shall send to the company any consignment of explosive, unless he has given to the company forty-eight hours previous notice in writing of his intention to send such consignment, and stating the true name, description, and quantity of the explosive proposed to be conveyed, and his own name and address, and also the name and address of the proposed consignee, and has had an intimation in writing from the company that they are prepared to receive such consignment.

3. Consignments of explosive shall be sent to the company's forwarding station, and shall be received by their servants, only at such times during the hours of daylight, that is to say, between sunrise and sunset, as the company may appoint; and every consignment and package containing any explosives proposed to be conveyed on any railway of the company, shall immediately on the arrival thereof at the company's station, wharf, or railway, be delivered to and be received by the company's servants authorised to receive dangerous goods, and by no other person whatsoever.

4. No explosive shall be loaded or unloaded on the company's premises by the consignor or consignee thereof, or their servants, except between sunrise and sunset.

5. Safety cartridges and percussion caps and safety-fuze (for blasting), may be conveyed by passenger train, provided all due precautions be taken by the sender for the prevention of accident by fire or explosion; also railway fog signals for the company's own use; but, except as aforesaid, no explosive whatever shall be conveyed by passenger train.

6. Gunpowder, or any explosive made with gunpowder, included in the 2nd division of the 6th (ammunition) class of explosives, as classified by the said Order in Council of the 5th of August 1875, if packed in metallic cylinders of a pattern approved by the company, and similar in construction and security to those used by Government for the conveyance of small quantities of gunpowder by railway, may be conveyed along with ordinary goods traffic in a carriage not containing any article or substance liable to cause or communicate fire or explosion.

7. No explosive of the 5th (fulminate) class, nor any explosive of the 6th (ammunition) class, containing its own means of ignition, nor any explosive of the 7th (firework) class, shall be conveyed in the same carriage with any explosive not of the class and division to which it belongs, unless it be sufficiently separated therefrom to prevent any fire or explosion which may take place in one such explosive being communicated to another.

8. There shall not be conveyed in the same carriage with any explosive, any lucifer matches, fuzees, pipe-lights, acids, naphtha, paraffin, petroleum, to which the Petroleum Act, 1871, or any Act repealing or amending the same applies, or any other volatile spirit, or substance liable to give off an inflammable vapour at a temperature below 100° Fahrenheit, or liable to spontaneous ignition, or to cause or communicate fire or explosion.

9. On each side of every carriage containing any explosive there sha

be affixed in conspicuous characters, by means of a securely attached label or otherwise, the word "explosive" or the name of the explosive with the word "explosive," except when containing gunpowder or ammunition packed in metallic cylinders as provided for in the 6th of these byelaws; and every carriage containing explosive shall be placed as far as practicable from the engine attached to the train.

10. Not more than five carriages containing explosive shall be loaded or unloaded at or on any railway station or wharf of the company, or be attached to or conveyed by any one train at any one time; and the quantity of explosive to be contained or loaded in any one such carriage at any one time shall not exceed 10,000 lbs. in weight; provided always that the quantity of explosive to be contained or loaded in any one such carriage, shall not exceed one ton in weight, unless the carriage shall be a covered van.

11. If the explosive to be conveyed is not effectually protected from accident by fire from without, by being placed in the interior of a carriage which is enclosed on all sides with wood or metal, then the explosive shall be completely covered with painted cloth, tarpaulin, or other suitable material so as to effectually protect it against communication of fire.

12. There shall not be any iron or steel in the interior of the portion of the carriage where the explosive is deposited, unless the same be covered either permanently or temporarily with leather, wood, cloth, sheet-lead, or other suitable material.

13. When the stowing of explosive in any carriage or the loading or unloading of any explosive is undertaken by any person other than the company, all due precautions shall be taken by such person by careful stowing and loading and unloading and otherwise to prevent and secure such explosive from being brought into contact with or endangered by any other article or substance liable to cause fire or explosion.

14. In loading or unloading any explosive, the casks and packages containing the same shall, as far as practicable, be passed from hand to hand and not rolled upon the ground, and in no case shall any such casks or packages be rolled, unless hides, cloths, or sheets have been previously laid down on the platform or ground over which the same are to be rolled. Casks or packages containing explosive shall not be thrown or dropped down, but shall be carefully deposited and stowed.

15. No person while employed in loading, stowing in any carriage, or unloading any explosive included in classes 1, 2, 3, 4, or 5 of the classification of explosives as classified by the said Order in Council, dated August 5th, 1875, shall wear boots or shoes with steel or iron nails, steel or iron heels, or tips of any kind, or have about his person any lucifer match, explosive, or means of striking a light; and all persons employed in the loading, stowing, or unloading of any explosive shall, while such loading, stowing, or unloading is going on, abstain from smoking.

16. While the loading, unloading, or conveyance of explosive is going on, all persons engaged in such loading, unloading, or conveyance shall observe all due precautions for the prevention of accidents by fire or explosion, and for preventing unauthorised persons having access to the explosive so being loaded, unloaded, or conveyed, and shall abstain from any act whatever which tends to cause fire or explosion, and is not reasonably necessary for the purpose of loading, unloading, or conveyance of such explosive, or of any other article carried therewith, and for preventing any other person from committing any such act; and such other person who, after being warned, commits any such act shall be deemed to commit a breach of these byelaws.

17. The loading or unloading of explosive into or out of any carriage, when once begun, shall be proceeded with with all due diligence until the same is completed.

18. Packages containing any explosive must be removed by the consignee from the station, wharf, or dépôt of the company to which they have been conveyed as soon as practicable and with all due diligence after arrival; and if not removed within twelve hours after arrival the packages and contents may be forthwith sold by the company, or otherwise disposed of as they think fit; and such packages shall in the meantime, and until such removal, sale, or disposal, be completely covered over with painted cloth, tarpaulin, or other suitable material.

19. The company may refuse to receive, forward, carry, or allow to be brought or carried upon their railway, any carriage or package which they suspect to be packed or sent, or to contain any article or thing packed or sent in contravention of the said Act, or of any of these byelaws or not in accordance therewith, and in case any carriage or package which the company suspect to be so packed or sent, or to contain any such article or thing as aforesaid, shall be upon any railway of the company, the company may open, or require such carriage or package to be opened, to ascertain the fact.

20. These byelaws are supplemental to the Explosives Act, 1875; and in the event of any breach (by any act or default) of any of them, or any attempt to commit such breach, the following penalties and consequences will be incurred and ensue; that is to say,

(1.) The explosive in respect of which, or being in the carriage, or train of carriages, in respect of which, the offence is committed, may unless the offence be committed by the company, be forfeited to the company.

(2.) The person committing the offence shall be liable to a penalty not exceeding 20*l.* for each offence, and to a further penalty of 10*l.* for each day during which the offence continues; and the owner of the carriage, or train of carriages in respect of which, or containing the explosive in respect of which, the offence is committed, the person in charge of such carriage, and the owner of such explosive, shall each be liable to a similar penalty, if he was a party or contributed to such offence, or neglected to supply the proper means, or to issue proper orders for the observance, or has not used due diligence to enforce the observance of these byelaws.

21. Copies of these byelaws shall be exhibited in a conspicuous place at the stations on the company's railways, and may be obtained on application to the secretary of the company.

22. The above byelaws (with the exception of byelaw No. 5) do not apply to small packages of percussion caps, safety cartridges, or gunpowder, carried by passengers for private use and not for sale, not exceeding in the whole for one passenger at any one time 5,000 percussion caps, and 1,000 safety cartridges in number, and 3 lbs. in weight of gunpowder, provided such gunpowder is contained in a substantial case, bag, canister, or other receptacle made and closed so as to prevent the gunpowder from escaping.

Given under the common seal of the this day of 188 .

*Secretary.* L.S.

The Board of Trade hereby signify their sanction of the above Byelaws.

Singed by order of the Board of Trade this day of 188 .

*An Assistant Secretary to the Board of Trade.*

NOTICE.—The company hereby give notice that they are not common carriers of explosives, and do not undertake the carriage of any explosive except on special conditions signed by the sender thereof, or by the person delivering the same to the company for carriage.

# BOARD OF TRADE FORMS OF RETURNS UNDER THE CONTINUOUS BRAKES ACT, 1878.

No. 1.—RETURN for the Six Months ending on the 30th day of June, 1888, of the Amount and Description of Continuous Brake Power in use on the Passenger Trains running on the Railways worked by the ——— Railway Company.

| NAME OF RAILWAY COMPANY. | Name and Description of Brake or Brakes adopted by the Company and in use on Passenger Trains on Lines worked by them. | (1) Whether the brakes are instantaneous in action and incapable of being applied by engine driver and guards. (2) Whether self-acting. (3) Whether capable of being applied to every vehicle of a train. (4) Whether in regular use in daily working. (5) Whether the materials employed are of a durable character, easily maintained and kept in order. | Amount of Stock fitted with Continuous Brakes. | | | | | | Amount of Stock NOT fitted with Continuous Brakes. | | Amount of Stock fitted during the above Six months | | | | Special Rules under which the Continuous Brakes are worked. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Number of Engines and Tenders (used for Passenger Trains) in which the continuous brakes can be applied to the wheels. | Number of Engines and Tenders (used for Passenger Trains) fitted only with apparatus for applying the brake. | NUMBER OF VEHICLES. | | | | Number of Engines and Tenders used for Passenger Trains. | Number of Passenger Carriages and other Vehicles used for Passenger Trains. | Number of Engines and Tenders (used for Passenger Trains) in which the brakes can be applied to the wheels. | Number of Engines and Tenders (used for Passenger Trains) fitted only with apparatus for applying the brake. | Number of Passenger Carriages and other Vehicles used for Passenger Trains. | | |
| | | | | | Passenger Carriages. | | Other Vehicles used for Passenger Trains. | | | | | | | | |
| | | | | | Fitted with brake gear complete. | Fitted only with chains or pipes and connections for connecting the brake. | Fitted with brake gear complete. | Fitted only with chains or pipes and connections for connecting the brake. | | | | | Fitted with brake gear complete. | Fitted only with chains or pipes and connections for connecting the brake. | |
| | (Each description of continuous brake to be given.) | (Replies to these questions to be given for each description of brake, and also state whether the brakes are used for every stoppage.) | | | | | | | | | | | | | |
| | | | (The amount of stock fitted with each description to be given.) | | | | | | | | (The amount of stock for each description of brake to be given.) | | | | |

## BOARD OF TRADE FORMS OF RETURNS UNDER THE CONTINUOUS BRAKES ACT, 1878.

No. 2.—RETURN for the Six Months ending on the 30th day of June, 1888, of all instances in which Continuous Brakes have failed to act when required to be brought into action or have caused delay in the working of the trains, on any railway worked by the ——— Railway Company.

| 1. Name of Railway Company | 2. Name or description of Brake which failed or caused delay in any of the instances asked for in Column 4. | 3. Date of Failure. | 4. Instances under the three following heads separately of :— 1. Failure or partial failure to act when required in case of an accident to a train, or a collision between trains being imminent 2 Failure or partial failure to act under ordinary circumstances to stop a train when required. *In both of the above instances (1 and 2) the cause to be fully stated.* 3 Delay in the working of trains in consequence of defects in, or improper action of, the Brakes, distinguishing whether they arose from neglect or inexperience of servants, or failure of machinery or material. *The number affixed to each carriage on which the brake failed, or which caused the delay, to be stated in each circumstance; and also the locality where the failure occurred.* | 5. Number of Miles run by Trains fitted with each description of Continuous Brake. |
|---|---|---|---|---|
| | | | | |

NOTE.—*If there were no failures, or no instances of delay, it should be so stated.*

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No. 3.—RETURN for the Six Months ending on the 30th day of June, 1888, of the number of miles run by Passenger Trains not fitted with Continuous Brakes on any railway worked by the ——— Railway Company.

| Name of Railway Company. | Name of Railway worked by Company on which Passenger Train ran without Continuous Brake. | Number of Miles run by Passenger Trains without Continuous Brakes. |
|---|---|---|
| | *(Insert in this column the name of the Company's railway and of any railway worked by them.)* | |

NOTE.—*Should Continuous Brakes not be in use on the Company's railway, or on the railways worked by them, it will still be necessary to give the amount of stock not fitted, and the number of miles run by trains without Continuous Brakes required by Returns Nos. 1 and 3.*

# THE RAILWAY AND CANAL COMMISSION RULES.

General Rules *made by the Commissioners established under the Statute 51 & 52 Vict. c. 25, intituled "An Act for the better Regulation of Railway and Canal Traffic and for other purposes," for regulating the procedure and practice before them* (a).

*Interpretation.*

1. In the construction of these Rules and the Forms herein referred to, words importing the singular number shall include the plural, and words importing the plural number shall include the singular number, and the following terms shall (if not inconsistent with the context or subject-matter) have the respective meanings hereinafter assigned to them; that is to say, "application" shall include complaint under the Railway and Canal Traffic Act, 1854, and the Railway and Canal Traffic Acts, 1873 and 1888; "applicant" shall include all persons or authorities authorised to make any application or complaint to the Commissioners; "defendant" shall mean the persons or company against whom the application or complaint is made, or any persons or authorities who may appear in opposition to such application or complaint; "solicitor" shall include any person entitled under section 51 of the Railway and Canal Traffic Act, 1888, to practise as an attorney or agent in proceedings before the Commissioners; and terms defined by the Railway and Canal Traffic Acts, 1873 and 1888, shall, unless there be something repugnant thereto in the context, have, in these Rules, the same meanings that are assigned to them by those Acts. Interpretation of terms.

*Application or Complaint to the Commissioners.*

2. Every proceeding before the Commissioners, except proceedings under section 14 of the Regulation of Railways Act, 1873, and sections 33 and 34 of the Railway and Canal Traffic Act, 1888, and applications under Rules 53 and 54 of these Rules, shall be commenced by an application made to them, which shall be in writing, or printed, and signed by the applicant or his solicitor, or in the case of a company or any of the authorities mentioned in section 7 of the Railway and Canal Traffic Act, 1888, being applicants, the application shall Proceedings how commenced, and form of application generally.

(a) *Editor's Note.*—These Rules are made under sect. 20 of the Act, p. 350, ante. The Editor is responsible for the marginal notes to Rules 3—15.

be signed by their chairman, manager, secretary, or solicitor. It shall contain a clear and concise statement of the facts, the grounds of application, and the relief or remedy to which the applicant claims to be entitled. It shall be divided into paragraphs numbered consecutively. It shall be indorsed with the name and address of the applicant, and if there be a solicitor acting for him in the matter, with the name and address of such solicitor, and if he be an agent for another solicitor in the matter, then also the name and address of such other solicitor. The application shall be according to Form No. 1 in the First Schedule hereto, or to the like effect.

Reasonable facilities, undue preference, &c.

3. Every application made to the Commissioners under section 6 of the Regulation of Railways Act, 1873, or section 9 of the Railway and Canal Traffic Act, 1888, shall be for an order enjoining the company complained of to do or to desist from doing the acts therein specified.

Arbitration.

4. Every application made to the Commissioners under section 8 of the Regulation of Railways Act, 1873, shall be for an order determining the difference referred to them (with their consent) in lieu of being referred to arbitration, such consent to be signified by sealing the indorsement on such application; which indorsement shall be according to Form No. 3 in the First Schedule hereto. The applicant shall state whether or not it is a case in which any arbitrator has in any general or special Act been designated by his name or by the name of his office, or in which a standing arbitrator has been appointed under any general or special Act.

5. Every application made to the Commissioners under section 9 of the Regulation of Railways Act, 1873, shall be signed by all the parties to the difference, or their solicitors, and shall be for an order determining the difference referred to the Commissioners (with their consent). The consent of the Commissioners shall be signified as aforesaid.

Working agreements.

6. Every application made to the Commissioners under section 10, sub-section 1, of the Regulation of Railways Act, 1873, shall be for the approval by the Commissioners of any working agreement between railway companies, whereof they desire to have the Commissioners' approval, or shall be for the exercise of any other powers (to be specified in the said application) transferred by the said sub-section to the Commissioners with respect to the approval of working agreements (*b*).

Through rate or route.

7. Every application made to the Commissioners under section 25, sub-section 4, of the Railway and Canal Traffic Act, 1888, shall be for an order allowing the through rate or route, or through rate and route proposed by the applicant and objected to by the forwarding company or companies.

8. Every application made to the Commissioners under section 25, sub-sections 6 and 7, of the Railway and Canal Traffic Act, 1888, shall be for an order allowing or determining (as the case may be) the

(*b*) The public notice required to be given by the railway companies should be according to Form No. 9 of Schedule I., and the Commissioners' directions prescribing the steps to be taken to obtain their approval of working agreements are set out in Schedule IV.

apportionment of the through rate objected to by the forwarding company or companies.

9. Every application made to the Commissioners under section 14 of the Regulation of Railways Act, 1873, and under sections 33 and 34 of the Railway and Canal Traffic Act, 1888, may be by summons, and shall be for an order upon the company against whom the application is made to keep at the stations, wharves, or ports named in such summons a book or books of rates and distances, and other particulars required by those sections or either of them, or for an order allowing inspection of such books, or for an order to distinguish in the book or books in such summons mentioned how much of the rate in respect whereof the application is made is for the conveyance of the particular description of traffic therein named on the railway or canal in question, including therein tolls for the use of the railway or canal, for use of carriages or vessels, or for locomotive or other tractive power, and how much is for other expenses, specifying the nature and detail of such other expenses. The applicant in such last-mentioned case shall file an affidavit at the time of taking out such summons stating that he is interested in the matter, and showing how he is interested therein. Book of rates.

10. Every application made to the Commissioners under section 15 of the Regulation of Railways Act, 1873, or under section 37 of the Railway and Canal Traffic Act, 1888, shall be for them to hear and determine the question or dispute therein mentioned with respect to the terminal charges of the company against whom the application is made, and to decide what is a reasonable sum to be paid to such company in respect of such terminal charges. Terminals.

11. Every application made to the Commissioners under section 16 of the Regulation of Railways Act, 1873, shall be for them to sanction the agreement therein mentioned, such sanction to be signified by certificate under their seal. Before the companies enter into such agreement, notice of their intention to do so shall be given by them, or one of them, by advertisement to be inserted once at least in each of three successive weeks in some newspaper published or circulating in the county or counties in which the canal to which the proposed agreement relates or some portion of such canal is situate. Such notice shall be according to Form No. 8 in the First Schedule hereto. Canal agreement.

12. Every application made to the Commissioners under section 17 of the Regulation of Railways Act, 1873, shall be for an order upon the railway company against whom the application is made, restraining them from permitting and suffering the canal therein mentioned, or parts thereof, or works belonging thereto, to remain unrepaired, or in want of dredging, or not in good working condition, or without proper supplies of water thereto; and also enjoining them to keep and maintain the said canal or such parts thereof, or such works thereto belonging, thoroughly repaired or dredged or in good working condition, or to preserve the supplies of water to the same. The application in such case shall specify the obstruction, want of repair, or other defect sought to be remedied, and show in what part of the canal or works such obstruction, want of repair, or other defect exists. Canal maintenance.

Dispute as to legality of toll or rate.

13. Every application made to the Commissioners under section 10 of the Railway and Canal Traffic Act, 1888, shall be for them to hear and determine the question or dispute therein mentioned with respect to the legality of any toll, rate, or charge or portion of a toll, rate, or charge charged or sought to be charged by any company for merchandise traffic. The parties may concur in stating such question or dispute in the form of a joint application without further pleadings.

Group rate.

14. Every application by a company under section 29, sub-section 3, of the Railway and Canal Traffic Act, 1888, shall be for an order determining whether the group rate, or the rate as to which there is a doubt, is or is not a contravention of section 2 of the Railway and Canal Traffic Act, 1854, and in any such application the company applying shall state the nature of the doubt considered to exist.

Where such an application is in respect of a group rate it shall specify, in addition to the amount of the rate, the names of the places grouped together, and such distances as may be material for the purposes of the application.

The company making the application for such order shall give one month's public notice of their intention to apply to the Commissioners under this section by advertisement in at least one London daily newspaper and in one newspaper in general circulation in the district or districts within which the group is comprehended; such advertisements shall in each case be inserted in each of three successive weeks, at intervals of not less than a week, in each of the newspapers in which they appear. In such notice full particulars shall be given of the group rate, or the rate or rates as to which the Commissioners' determination is to be asked.

Alteration of canal tolls or rates.

15. Every application to the Commissioners under section 38, sub-section 1, of the Railway and Canal Traffic Act, 1888, shall be for an order on the railway company or on the directors or officers of the railway company or on any person acting on their behalf, and having such control or right of interference as mentioned in the said section, requiring the tolls, rates, and charges levied by such railway company, directors, officers, or persons on the traffic of, or for the conveyance of merchandise on, the canal in respect of which the complaint is made to be altered and adjusted in such a manner that the same shall be reasonable as compared with the rates and charges for the conveyance of merchandise on the railway. The applicant shall state in what manner the existing tolls, rates, and charges so levied as aforesaid are calculated to divert traffic from the canal to the railway to the detriment of the canal, or of persons sending traffic over the canal or other canals adjacent to it, and shall state the amount and the particulars of the alteration or reduction proposed.

Differences under section 19 of Regulation of Railways Act, 1873; the Board of Trade Arbitrations Act, 1874; and the Telegraph Act, 1878.

16. The procedure in cases under the following Acts shall be in each case, as nearly as may be, the same as that directed to be taken by Rule 4 of these Rules in proceedings under the 8th section of the Regulation of Railways Act, 1873.

(*a.*) Differences between the Postmaster-General and any company, referred to the Commissioners under the provisions of section 19 of the Regulation of Railways Act, 1873.

(*b.*) Differences referred to the decision of the Commissioners by the Board of Trade under the provisions of Part 2 of the Board of Trade Arbitrations Act, 1874.

(*e.*) Differences required by sections 4 and 5 of the Telegraph Act, 1878, to be referred to the decision of the Commissioners.

17. Where the Board of Trade under the provisions of section 3 of the Cheap Trains Act, 1883, have referred any matters contained in the said section for the decision of the Commissioners, the railway company or companies concerned shall, on receiving notice from the Commissioners to do so, file an answer within such time as the Commissioners may order to the allegations contained in the order of the Board of Trade referring the matter as aforesaid. Reference under Cheap Trains Act, 1883.

*Claim for Damages.*

18. If the applicant, in any matter which the Commissioners have jurisdiction to hear and determine, claims damages from the defendant, he shall in such case state in his application the amount of damages claimed, and the matter in respect of which such claim is made, and the defendant may before or at the time of delivering his answer, or, by leave of the Commissioners, at any later time, pay into Court a sum of money by way of satisfaction, which shall be taken to admit the matter in respect of which the payment is made; or the defendant may, with an answer denying liability, pay money into court. If the defendant, in any matter which the Commissioners have jurisdiction to hear and determine, desire to have all claims for damages in respect of such matter dealt with by the Commissioners, he shall make such claim in his answer, or, by leave of the Commissioners, at any subsequent stage of the proceedings. Damages, how claimed.

The provisions of Rules 2, 3, 4, 5, 6, and 7 of Order 22 of the Rules of the Supreme Court, 1883, and the Forms required to be used in such rules shall, *mutatis mutandis*, apply to and be used in all proceedings in this rule provided for (*c*).

Money paid into Court in applications made to the Commissioners in English cases shall be paid into the Bank of England (Law Courts Branch), and the manner of payment into and out of Court, and the manner in which money in Court shall be dealt with, shall be subject to the regulations contained in the Supreme Court Funds Rules in force for the time being so far as the same are applicable.

Money paid into Court on applications made to the Commissioners in Scotch cases shall be paid into one of the incorporated or chartered banks in Scotland.

Money paid into Court on applications made to the Commissioners in Irish cases shall be paid into the Bank of Ireland.

*Filing Application.*

19. Every application to which any of the foregoing rules apply shall be indorsed as required by Rule 2 and filed with the Registrar to the Commissioners (hereinafter in these Rules called "the Registrar") at their office, and except in cases under sections 10 and 16 of the Regulation of Railways Act, 1873, three copies of the application shall also be left with the Registrar. The Registrar shall make out a Filing application at the Commissioners' office.

(*c*) The provisions of the rules and the forms referred to are set in Schedule II.

list of the applications so filed according to the order in which they are received by him, and such list may be inspected at the office during office hours. The applications shall be heard by the Commissioners so far as it may in their judgment be practicable according to the order in which they are so entered upon the list.

*Indorsement on Application.*

Indorsement upon application.

20. In all proceedings (except proceedings under sections 8, 9, 10, and 19 of the Regulation of Railways Act, 1873, and subject to Rule 22 of these Rules) a copy of the application shall be indorsed with a notice to the defendant to put in an answer to the application within fifteen days from the service thereof, and that in default of such answer being put in within the time named, or any extension thereof duly granted, the Commissioners may proceed to hear the said application *ex parte*. Such indorsement shall be according to Form No. 2 in the First Schedule hereto, and shall be sealed by the Registrar with their seal.

*Service of Application.*

Service of application.

21. A copy of the application indorsed as aforesaid shall in all cases (except under sections 9 and 10 of the Regulation of Railways Act, 1873, and subject to Rule 22 of these Rules) be served by leaving the same with the manager, secretary, or chief clerk of the defendant at his principal office in any part of the United Kingdom, or in such manner as the Commissioners by special order may direct, but no such personal service shall be necessary when the defendant's solicitor or agent undertakes in writing to accept service of such copy on his behalf.

*Suspension of Proceedings.*

Communication by Commissioners to company complained of.

22. If the Commissioners think fit, in pursuance of section 7 of the Regulation of Railways Act, 1873, to communicate an application to the company against whom it is made, so as to afford them an opportunity of making observations thereon before requiring or permitting any formal proceedings to be taken thereon, they shall give notice thereof to the applicant within seven days from the date of the application having been left at their office, and thereupon all formal proceedings thereon shall be suspended until further notice from the Commissioners to the applicant.

Commissioners requiring further information.

23. The Commissioners may also within the said period of seven days, or at any time thereafter, require further information or particulars or documents from the applicant, and may suspend all formal proceedings upon the application until satisfied in this respect.

Inquiries under the Act of 1854.

24. If the Commissioners at any stage of the proceedings think fit to direct inquiries to be made under section 3 of the Railway and Canal Traffic Act, 1854, they shall give notice thereof to the parties to the application, and may stay proceedings or any part of the proceedings thereon until further notice from the Commissioners.

*Consent Cases.*

25. In all cases the parties may by consent in writing dispense with the formal proceedings hereinafter mentioned, or some portion of them, and orders by consent may be drawn up, and, if approved of by the Commissioners, may be sealed with their seal. Parties dispensing with formal proceedings.

*Answer.*

26. Within fifteen days from the service of the application, or within such shorter or extended time as may be fixed by the Commissioners, the defendant shall file with the Registrar their answer to the application, and leave with him three copies of the same, and the defendant shall within such time deliver to the applicant or to his solicitor a signed copy of the answer. The answer shall contain a clear and concise statement of the facts which form the ground of defence, or of any other objections relied upon. It may admit the whole or any part of the facts stated in the application. It shall be divided into paragraphs numbered consecutively, and it shall be signed by the person actually making the same, and who is acquainted with the facts stated therein. It shall be indorsed with the name and address of the defendant, and if there be a solicitor acting for him in the matter, with the name and address of such solicitor, and if he be an agent for another solicitor in the matter, then also with the name and address of such other solicitor. It shall be according to Form No. 4 in the First Schedule hereto, or to the like effect. Form of, and time for filing and delivery.

*Reply.*

27. Within six days from the delivery of the answer to the applicant, or within such shorter or extended time as may be fixed by any special order of the Commissioners, the applicant shall file his reply (if any) with the Registrar, and leave with him three copies of the same, and shall within such time deliver to the defendant or to his solicitor a copy of the reply. The applicant in such reply may object to the said answer as being insufficient, stating the grounds of such objection or deny the facts stated therein, or may admit the whole or any part of such facts. The reply shall be signed by the applicant, his solicitor or agent, and be according to Form No. 5 in the First Schedule hereto, or to the like effect. Form of, and time for filing and delivery.

*Pleadings after Reply by leave.*

28. No pleading subsequent to reply other than a joinder of issue shall be pleaded without leave of the Commissioners. Pleadings after reply.

*Close of Pleadings by implied Joinder.*

29. If the applicant does not deliver a reply, or any party does not deliver any subsequent pleading within the period allowed for that purpose, the pleadings shall be deemed to be closed at the ex- Close of pleadings on default.

piration of that period, and all material statements of facts in the pleading last delivered shall be deemed to have been denied and put in issue.

*Power to direct and settle Issues.*

Commissioners may direct issues.

30. If it appear to the Commissioners at any time that the statements in the application or answer or reply do not sufficiently raise or disclose the issues of fact in dispute between the parties, they may direct them to prepare issues, and such issues shall, if the parties differ, be settled by the Commissioners.

*Preliminary Questions of Law.*

Commissioners may decide preliminary questions of law.

31. The Commissioners may by consent of the parties to any proceedings before them, or on the application of either party, order any point of law raised by the pleadings to be set down for hearing and disposed of at any time before the hearing of the application. The argument of such point of law shall take place before not less than three Commissioners, and upon such hearing if in the opinion of the Commissioners the decision of such point of law substantially disposes of the whole application, the Commissioners may order that the argument shall be the hearing of the case, and thereupon may grant and dismiss the application or make such other order therein as may seem to them just.

*Preliminary Meeting.*

Commissioners may hold preliminary meeting.

32. If it appear to the Commissioners at any time before the hearing of the application that it will be to the advantage of the parties to hold a preliminary meeting for the purpose of fixing or altering the place of hearing, determining the mode of conducting the inquiry, the admitting of certain facts or the proof of them by affidavit, or for any other purpose, they shall have power to hold such meeting upon giving notice thereof to the parties, and may thereupon make such order as shall seem to them fit under the circumstances.

*Preliminary Communication with the Parties.*

Commissioners may communicate with parties.

33. The Commissioners may, if they think fit, instead of holding such meeting as in the preceding Rule mentioned, communicate with the parties in writing, and may require answers to such inquiries as they may think fit to make.

*Interim Injunction.*

Commissioners may grant interim injunction.

34. An interim injunction may be moved for at any stage of the proceedings. Such application (except as after provided) shall be made to and be disposed of by the *ex officio* Commissioner for the part

of the United Kingdom in which the proceedings (under which the application is made) are depending. Notice of such application shall be given to the parties affected thereby at least two clear days before the application is moved: Provided that in cases of emergency it shall be competent to the *ex officio* Commissioner to grant the interim injunction sought without previous notice. An application to dissolve any injunction may be made at any time to the *ex officio* Commissioner on two clear days' notice to the party in whose favour the injunction was granted.

*Discovery of Documents and Interrogatories.*

35. In England and Ireland either party may, without filing any affidavit, apply to the Commissioners for an order to direct the other party to make discovery on oath of the documents which are or have been in his possession or power relating to the matter in question. In Scotland either party may apply to the *ex officio* Commissioner for an order on the other party to produce all documents which are in his possession or power relating to the matter in question, or either party may apply as aforesaid for a diligence to recover all documents, in whosesoever possession they may be, relating to the matter in question. Provided that in either case the party making the application shall give to the other party at least three days' notice of his intention to make it, and shall (where a diligence is sought) with such notice furnish a copy of the specification setting forth the documents for recovery of which a diligence is sought. Applications for discovery.

36. In England and Ireland the applicant may at any time after serving his application, and the defendant may at or after the time of delivering his answer, by leave of the Commissioners, deliver interrogatories in writing for the examination of the opposite party.

Interrogatories shall be answered by affidavit to be filed within ten days or within such other time as the Commissioners may allow. The interrogatories may be answered partly by one person and partly by another or others, but in all cases the party answering any part thereof shall state in his answer that the matters stated by him are within his personal knowledge, and if any person interrogated omits to answer or answers insufficiently, the party interrogating may apply to the Commissioners for an order requiring him to answer, or to answer further, as the case may be.

No payment into court of a sum of money as deposit shall be required from a party seeking discovery by interrogatories or otherwise.

In Scotland either of the parties may at any time after the service of the application or lodging of the answer respectively, and before any proof has been adduced, present to the *ex officio* Commissioner a statement of facts which he desires to be answered by his opponent, and may move the *ex officio* Commissioner for an order on his opponent to answer the same, with which motion the *ex officio* Commissioner shall deal as appears just. Notice of such motion (accompanied by a copy of the statement of facts) to be served at least three days before the motion is to be heard.

*Production and Inspection of Documents.*

Production of documents on oath.

37. It shall be lawful for the Commissioners, at any time during the pendency of any matter before them, to order the production by any party thereto, upon oath, of such of the documents in his possession or power relating to any such matter as the Commissioners shall think right; and the Commissioners may deal with such documents when produced before them in such manner as shall appear just.

Documents referred to in pleadings.

38. Either party shall be entitled at any time before or at the hearing of the case to give a notice in writing to the other party in whose application or answer or reply reference is made to any document, to produce it for the inspection of the party giving such notice, or of his solicitor, and to permit him to take copies thereof, and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such proceeding without the leave of the Commissioners, unless he satisfy the Commissioners that he had sufficient cause for not complying with such notice.

*Notice to produce.*

Notice to produce.

39. Either party may give to the other a notice in writing to produce such documents as relate to any matters in difference (specifying the said documents), and which are in the possession or control of such other party, and if such notice be not complied with, secondary evidence of the contents of the said documents may be given by or on behalf of the party who gave such notice.

*Notice to admit.*

Notice to admit.

40. Either party may give to the other party a notice in writing to admit any documents saving all just exceptions, and in case of neglect or refusal to admit after such notice, the costs of proving such documents shall be paid by the party so neglecting or refusing, whatever the result of the application may be, unless at the hearing the Commissioners certify that the refusal to admit was reasonable, and no costs of proving any document shall be allowed unless such notice be given, except where the omission to give the notice is in the opinion of the taxing officer a saving of expense.

*Notice of Discontinuance.*

Notice where application withdrawn or settled.

41. When any application made to the Commissioners has been withdrawn or settled, the applicant shall immediately thereupon give notice thereof to the Registrar.

*Witnesses.*

Attendance of witnesses.

42. The attendance of witnesses with or without documents shall be enforced by subpœna which may be sued out by either party requiring the attendance of such witness. Such subpœna shall be according to Forms No. 6 or 7 in the First Schedule hereto, and

shall be sealed by the Registrar with the seal of the Commission, and may be served in any part of the United Kingdom. The witnesses shall be entitled to the same protection as when subpœnaed or cited to attend a superior court, and the laws and practice in force for the time being relating to witnesses in a superior court shall apply to them in proceedings before the Commissioners.

### *Appointing Date of Hearing.*

Application to fix date of hearing.

43. The applicant, at the time of filing his reply (if any), or if the defendant make default in putting in his answer, or at any time after the pleadings are closed, may apply to the Registrar to fix a date for the hearing. If the applicant does not within six weeks after the close of the pleadings, or within such extended time as the Commissioners may allow, apply to the Registrar to fix a date for the hearing, the defendant may do so. No such application shall be made without two days' previous notice in writing to the opposite party. If either of the parties fail to appear on the application to fix a day for hearing, notice of the day appointed shall be served within a time to be named by the Registrar.

Depositing maps, plans, &c.

The parties shall leave with the Registrar, six days before the day fixed for the hearing, any maps, plans, time-tables, and special Acts or other documents referred to in the application, answer, reply, or other pleading, or which may be useful in explaining or supporting the same.

### *The Hearing.*

Power of Commissioners to proceed *ex parte*.

44. If the applicant does not appear at the time and place appointed for the hearing, the Commissioners may dismiss the application, and if the defendant does not appear at such time and place, and the Commissioners are satisfied that the notice of the hearing was duly served, they may hear and determine the application *ex parte*, and if at any adjournment of the hearing the parties or either of them do not appear, the Commissioners may decide the case in their absence.

### *Evidence at the Hearing.*

To be *vivâ voce*, except in certain cases, and whether before or at the hearing.

45. The witnesses at the hearing shall be examined *vivâ voce*, but the Commissioners may at any time, and whether before or at the hearing, for sufficient reason order that any particular facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing on such conditions as they may think reasonable, or that any witness, whose attendance ought for some sufficient cause to be dispensed with, be examined by interrogatories or otherwise before a person to be appointed by them for that purpose, provided that when it appears to the Commissioners that the other party *bonâ fide* desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by affidavit.

Depositions taken before a person authorised to take them may be read at the hearing without calling the deponents unless the Commissioners otherwise order.

Commissioners may require further evidence.

46. The Commissioners may require further evidence to be given either *vivâ voce*, or by affidavit, or by deposition taken before a person appointed by them for that purpose.

Hearing to proceed from day to day.

47. The hearing of the case when once commenced shall proceed, so far as in the judgment of the Commissioners may be practicable and convenient, from day to day.

*View.*

Power of Commissioners to view.

48. In any case in which, in the opinion of the Commissioners, a view is necessary or desirable, it may be had by one or more Commissioners as they may direct.

*Judgment of Commissioners.*

Judgment of Commissioners.

49. After hearing the case the Commissioners may dismiss the application, or make an order thereon in favour of the defendants, or reserve their decision, or make such other order upon the application as may be warranted by the evidence, and may seem to them just.

May be in writing and sent or delivered to the parties.

50. The Commissioners may give their decision in writing, signed by them, and it may be sent or delivered to the respective parties, and it shall not be necessary to hold a court merely for the purpose of giving such decision.

*Costs.*

Costs, how taxed.

51. Costs shall be taxed upon the order of the Commissioners under which they are payable, and such costs shall, if required, be taxed by the Registrar or such other person as the Commissioners may direct.

*Alteration or Rescission of Orders.*

Alteration or rescission of orders.

52. Any application to the Commissioners to review and rescind or vary any decision or order previously made by them, and not being a decision or order upon an interlocutory application, nor under Rule 14 of these Rules, shall be made within twenty-eight days after the said decision or order shall have been communicated to the parties unless the Commissioners think fit to enlarge the time for making such application.

Any application to the Commissioners to review and rescind or vary any decision or order previously made by them upon an interlocutory application shall be made within four days after the said decision or order shall have been communicated to the parties, unless the Commissioners think fit to enlarge the time for making such application.

Every application under this Rule shall be made by motion; and no such motion shall be made without two clear days' previous notice in writing to the Registrar and to the parties affected thereby.

*Interlocutory Applications.*

53. Where not otherwise provided for in these Rules, all interlocutory applications shall, unless otherwise specially ordered, be heard by the Registrar upon summons duly served, and may be determined in a summary way. Such application may, if the Registrar thinks fit, be adjourned, either before or at the time of hearing before him, into Court for hearing before the Commissioners. **Interlocutory applications.**

Any person affected by any order or decision of the Registrar in any matter involving questions of law may appeal therefrom to the *ex officio* Commissioner, and in any other matter to the Commissioners. Such appeal shall be by way of indorsement on the summons by the Registrar at the request of any party or by notice in writing to attend before the Commissioners without a fresh summons. Such notice shall be given to the Registrar and to the opposite party within four days after the decision complained of, or such further time as may be allowed by the Registrar or by the *ex officio* Commissioner, or the Commissioners.

An appeal from the Registrar's decision shall be no stay of proceedings unless so ordered by the Registrar or by the *ex officio* Commissioner, or the Commissioners.

*Affidavits.*

54. Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove, except on interlocutory proceedings, on which statements as to his belief with the grounds thereof may be admitted. The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter or copies of or extracts from documents shall be paid by the party using or filing the same. **Affidavits, how framed.**

55. Any affidavit used in any proceeding before the Commissioners may be sworn as follows: **Before whom sworn.**

In the United Kingdom before any of the said Commissioners or the Registrar, or the officer appointed by the Commissioners to administer oaths in proceedings before them (and in these cases without the payment of any fee), or before a person authorised to administer oaths in any of the Superior Courts, or before a Commissioner empowered to take or receive affidavits, or before a justice of the peace for the county or place where it is sworn or made.

In Scotland, in addition to the above-mentioned persons, before any sheriff-depute or his substitute or a justice of the peace.

In any place in the British dominions out of the United Kingdom, before any court, judge, or justice of the peace, or any person authorised to administer oaths there in any court.

In any place out of the British dominions, before a British minister, consul, or vice-consul.

The Commissioners shall take judicial notice of the seal or signature, as the case may be, of any such court, judge, minister, consul, or vice-consul attached, appended, or subscribed to any such affidavit.

Filing of, and giving office copies of, and of other documents.

56. Affidavits used in any proceedings before the Commissioners shall be filed in their office, and office copies of the same and of other documents filed in their office may be procured by the parties on application to the Registrar.

*Computation of Time.*

Time, how computed.

57. In all cases in which any particular number of days, not expressed to be clear days, is prescribed by the Railway and Canal Traffic Acts, 1873 and 1888, or by these Rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a Sunday, Christmas day, or Good Friday, or a day appointed for a public fast or thanksgiving, in which case the time shall be reckoned exclusively of that day also.

What days to be excluded.

58. The days between Thursday next before and the Wednesday next after Easter day, and the day appointed to be kept as the Queen's birthday, and Whit Monday and Whit Tuesday, and Christmas day, and the three following days, shall not be reckoned or included in any proceedings under the Railway and Canal Traffic Acts, 1873 and 1888.

Pleadings in the vacations.

59. The time between the 12th day of August and the 24th day of October in England and Ireland, and in Scotland between the 20th day of March and the 12th day of May, and between the 20th day of July and the 15th day of October, shall be reckoned in the computation of the times appointed or allowed by these Rules for filing, amending, or delivering, unless otherwise ordered.

*Registrar's Office, when open.*

Registrar's office, when open.

60. The Registrar's office shall be open daily from 10 o'clock in the forenoon till 4 o'clock in the afternoon, or till such later time as the Commissioners may direct, except upon Saturday, when it shall be open from 10 o'clock in the forenoon till 2 o'clock in the afternoon, and except between the 12th day of August and the 24th day of October, when the office is to be open from 11 o'clock in the forenoon till 1 o'clock in the afternoon.

The office shall be closed on the following days, namely, Good Friday, Easter Eve, Monday and Tuesday in Easter week, Christmas day and the three following days, and the day appointed to be kept as the Queen's birthday, and Whit Monday and Whit Tuesday.

*Sittings of the Court.*

Vacations.

61. Every *ex officio* Commissioner shall be entitled to the same vacations as are observed in the Superior Court of which he is a member. During the periods observed as vacations in the Superior

Courts the Lord Chancellor in England, the Lord President of the Court of Session in Scotland, and the Lord Chancellor in Ireland, may appoint any Judge of a Superior Court to take the place and perform the whole functions of the *ex officio* Commissioner for these parts of the United Kingdom respectively, in case of the *ex officio* Commissioner being absent or temporarily unable to fulfil his duties.

*Adjournment.*

62. The Commissioners may from time to time adjourn any proceedings before them. Power of Commissioners to adjourn.

*Amendment.*

63. The Commissioners may at any stage of the proceedings allow any pleadings to be amended, or may order to be struck out any matters which may tend to prejudice, embarrass, or delay the fair hearing of the case, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties. Power of Commissioners to amend.

*Formal Objections.*

64. No proceedings before the Commissioners shall be defeated by any formal objection. Formal objections not to prevail.

*Practice of Superior Courts, when applicable.*

65. The general principles of practice in the Superior Courts may be adopted and applied at the discretion of the Commissioners to proceedings before them. Discretion of Commissioners in cases not expressly provided for.

Where, in any complaint or other proceeding before the Commissioners, the defendant has his domicile or principal place of business or head office in England, such proceedings shall be deemed to be proceedings falling to be dealt with by the *ex officio* Commissioner for England, in so far as he is, by statute or any Rule of Court, charged with any duty in connection therewith, and in like manner, where the defendant has his domicile or principal place of business or head office in Scotland or Ireland, the proceedings shall be dealt with by the *ex officio* Commissioners for Scotland and Ireland respectively. Where there are in any proceedings more defendants than one having their domicile or principal place of business or head office in different parts of the United Kingdom, the Commissioners shall determine before which of the *ex officio* Commissioners such proceedings shall depend.

Subject to this rule, if any question should arise whether the Superior Court of England, Ireland, or Scotland is the Court with reference to which in the particular case the expression "superior court" in any of the said Rules is to be understood, the same shall be determined by the Commissioners, who shall make such order in that behalf as they shall think right under the circumstances, either with reference to the particular matter under consideration only or

with reference to the future conduct of the proceedings in general, or any of them, or with reference to anything that has already been done.

Provided that if any steps or proceedings have been taken under the practice of one Superior Court, and the Commissioners shall think that the practice of any other Superior Court ought to be applied, they shall make such order as shall, as far as practicable, and as is just under the circumstances, prevent the steps already taken from being rendered nugatory, and any expense already incurred from being thrown away.

*Enlargement or Abridgment of Time.*

Power to enlarge or abridge time.

66. The Commissioners or the Registrar, subject to an appeal to the Commissioners, may enlarge or abridge the time appointed by these Rules, or fixed by any order, for doing any act or taking any proceeding upon such terms, if any, as the justice of the case may require, and any such enlargement may be ordered, although the application for the same is not made until after the expiration of the time appointed or allowed.

Enlarging time by consent.

The time for delivering, amending, or filing any answer, reply, or other pleading or document may be enlarged by consent in writing, without application to the Commissioners. Such written consent shall be left with the Registrar at the time of filing the answer, reply, or other pleading or document.

*Transmission of Documents and Fees by Post.*

Documents, &c., sent by post.

67. Where an applicant does not reside in London, and he has no solicitor or agent there, all pleadings and documents required by these Rules to be sealed, filed in, or delivered at the Commissioners' office, may be sent by post, addressed to "The Registrar of the Court of the Railway and Canal Commission," and the fees payable (if any) in respect thereof may be sent by post, by post office order, payable to "The Registrar of the Railway and Canal Commission," to the Registrar, who shall cause stamps to be procured to the amount of such remittances, and such stamps to be obliterated. All letters, notices, or documents sent by post to the officers of the Commission shall be prepaid.

*Table of Fees.*

What fees may be taken.

68. The fees, a table whereof is in the Third Schedule hereunto annexed, may be demanded and taken in respect of the proceedings before the Commissioners.

Signed the 22nd day of February, 1889.

ALFRED WILLS.
JOHN TRAYNER.
JAMES MURPHY.
F. PEEL.
WM. P. PRICE.

Approved,
HALSBURY, C.

Approved,
M. E. HICKS-BEACH,
(*President of the Board of Trade*).

# SCHEDULES.

## FIRST SCHEDULE.

### FORMS.

No. 1. Application.
No. 2. Indorsement.
No. 3. Indorsement required by Rule 4.
No. 4. Answer.
No. 5. Reply.
No. 6. Form of subpœna ad testificandum.
No. 7. Form of subpœna duces tecum.
No. 8. Notice required by Rule 11.
No. 9. Form of notice to the public required to be given by railway companies by Section 24 of Railway Clauses Act, 1863.

The forms of proceedings contained in this schedule may be used in the cases to which they are applicable, with such alterations as the circumstances of the case may render necessary, but any variance therefrom, not being in matter of substance, shall not affect their validity or regularity.

### No. 1.

### APPLICATION.

In the Court of the Railway and Canal Commission.

| | |
|---|---|
| In the matter of the application of *A. B.* against The Company. | *A. B.* states that<br>1.<br>2. |

And the said *A. B.* applies to the said Court under the above-mentioned Acts for an order enjoining the said company [*here state concisely the nature of the application, as for example*] to desist from giving any undue preference to themselves or other persons in the carrying or in the collecting, carrying, and delivering, for themselves or other persons, of goods and parcels, or in their charges for the same over the said *A. B.* in the carrying of such goods and parcels for him, and enjoining the said company not to subject him to any undue prejudice in respect thereof.

Dated this day of 18 .

(Signed) *A. B.*
*or*
*C. D.*
Solicitor for the Applicant.

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### No. 2.

*Indorsement on Application.*

To the within named Company.

You are hereby commanded by the Court of the Railway and Canal Commission within fifteen days from the service of the within application to put in your

answer to the same, and take notice that in default of such answer being put in within such time or any extension thereof duly granted, the said Court may proceed to hear the said application *ex parte*.

(Sealed).

[*Indorsement.*]

The within application is made by *A. B.*, of [*stating address and occupation, and if there be a solicitor in the matter*], by *C. D.*, of , [*and if he be agent for the solicitor*] as agent for *E. F.*, of solicitor for the said *A. B.*, and was filed on the day of 18 .

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No. 3.

*Indorsement required by Rule* 4.

To the within named Company.

Take notice that the Court of the Railway and Canal Commission, having consented to the within-mentioned difference (or differences) being referred to it for its decision in lieu of being referred to arbitration, you are hereby commanded within days from the service upon you of the within statement to put in your answer to the same, and take notice, that in default of such answer being put in within such time, or any extension thereof duly granted, the said Court may proceed to hear and determine the said difference *ex parte*.

(Sealed).

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No. 4.

ANSWER.

In the Court of the Railway and Canal Commission.

| | |
|---|---|
| In the matter of the application of *A. B.* against The Company. | The Company in answer to the application of *A. B.* state that—<br>1.<br>2.<br>This answer is made on behalf of the said Company by *C. D.* of , who is acquainted with the facts stated therein. |

Dated this day of 18 .

(Signed)

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No. 5.

REPLY.

In the Court of the Railway and Canal Commission.

| | |
|---|---|
| In the matter of the application of *A. B.* against The Company. | The said *A. B.* in reply to the answer of the said Company states that—<br>1.<br>2. And the said *A. B.* admits that |

Dated this day of 18 .

(Signed) *A. B.*
or
*C. D.*
Solicitor for the said applicant.

No. 6.

SUBPŒNA AD TESTIFICANDUM.

In the Court of the Railway and Canal Commission.

In the matter of the application of *A. B.*, Applicant.
against
The Company, Defendant.

Victoria by the grace of God, &c, to [*the names of three witnesses may be inserted*], greeting. We command you to attend before the Railway and Canal Commissioners at , on day, the day of 18 , at the hour of in the noon, and so from day to day until the above application is tried, to give evidence on behalf of the applicant (or defendant).

Witness, &c.

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No. 7.

SUBPŒNA DUCES TECUM.

In the Court of the Railway and Canal Commission.

In the matter of the application of *A. B.*, Applicant,
against
The Company, Defendant.

Victoria by the grace of God, &c., to [*the names of three witnesses may be inserted*] greeting. We command you to attend before the Railway and Canal Commissioners at , on day, the day of 18 , at the hour of in the noon, and so from day to day until the above application is tried, to give evidence on behalf of the applicant (or defendant), and also to bring with you and produce at the aforesaid time and place [*specify documents to be produced*].

Witness.

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No. 8.

NOTICE REQUIRED BY RULE 11.

The Railway and Canal Traffic Acts, 1873 and 1888.

Notice is hereby given that it is the intention of the Railway Company and the Canal Company, subject to the sanction of the Railway and Canal Commissioners, to enter into an agreement for the following purposes, viz. (among other things), the
and that a copy of the proposed agreement can be seen at the office of the Railway and Canal Commission at

Dated this day of 18 .

Secretary to the
(Solicitor or Agent.)

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No. 9.

FORM OF NOTICE TO BE GIVEN TO THE PUBLIC BY RAILWAY COMPANIES OF THEIR INTENTION TO ENTER INTO AGREEMENTS AMONGST THEMSELVES UNDER PART III. OF THE RAILWAY CLAUSES ACT, 1863.

Notice is hereby given pursuant to the provisions of the Railways Clauses Act, 1863, and the Railway and Canal Traffic Acts, 1873 and 1888, and the Act, 18 , that it is the intention of the Railway Company and the Railway Company to enter into an agreement for the following purposes, viz. (among other things), the
and that any company or person aggrieved by such proposed agreement and desiring to object thereto, may bring such objection before the Railway and Canal Commissioners, by sending the same in writing, addressed to the Registrar to the Railway and Canal Commissioners, at their office, at the London, on or before the (*a*) day of 18 , in which office a copy of the proposed agreement can be seen.

Dated this day of 18 .

Secretary to the
(Solicitor or Agent.)

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SECOND SCHEDULE.

RULES 2, 3, 4, 5, 6, 7 of Order XXII. of the Rules of the Supreme Court, 1883, referred to in Rule 18 of these Rules.

2. Payment into Court shall be signified in the defence, and the claim or cause of action in satisfaction of which such payment is made shall be specified therein.

3. With a defence setting up a tender before action, the sum of money alleged to have been tendered must be brought into Court.

4. If the defendant pays money into Court before delivering his defence, he shall serve upon the plaintiff a notice specifying both the fact that he has paid in such money, and also the claim or cause of action in respect of which such payment has been made. Such notice shall be in the Form No. 3 in Appendix B., with such variations as circumstances may require.

[Form No. 3 referred to in the foregoing rule.]

Heading as in Form (*b*).

Take notice that the defendant has paid into Court £ , and says that that sum is enough to satisfy the plaintiff's claim [*or* the plaintiff's claim for, &c.]

*Z.*, defendant's solicitor.

To Mr. *X. Y.*, the plaintiff's solicitor.

5. In the following cases of payment into Court under this Order, viz. :—

(*a*.) When payment into Court is made before delivery of defence ;

(*b*.) When the liability of the defendant, in respect of the claim or cause of action in satisfaction of which the payment into Court is made is not denied in the defence ;

(*c*.) When payment into Court is made with a defence setting up a tender of the sum paid ;

(*a*) 28 days should intervene between the date of the newspaper containing the first insertion of this notice and the date here inserted. *See* Schedule IV.

(*b*) NOTE.—In proceedings before the Commissioners the heading of this form will be the same as the heading of the forms in the First Schedule.

the money paid into Court shall be paid out to the plaintiff on his request, or to his solicitor on the plaintiff's written authority, unless the Court or a judge shall otherwise order.

6. When the liability of the defendant in respect of the claim or cause of action, in satisfaction of which the payment into Court has been made, is denied in the defence, the following rules shall apply :—

(*a*.) The plaintiff may accept in satisfaction of the claim or cause of action in respect of which the payment into Court has been made, the sum so paid in, in which case he shall be entitled to have the money paid out to him as hereinafter provided, notwithstanding the defendant's denial of liability, whereupon all further proceedings, in respect of such claim or cause of action, except as to costs shall be stayed ; or the plaintiff may refuse to accept the money in satisfaction and reply accordingly, in which case the money shall remain in Court subject to the provisions hereinafter mentioned.

(*b*.) If the plaintiff accept the money so paid in he shall, after service of such notice in the Form No. 4 in Appendix B., as in Rule 7 mentioned, or after delivery of a reply accepting the money, be entitled to have the money paid out to himself on request, or to his solicitor on the plaintiff's written authority, unless the Court or Judge shall otherwise order.

(*c*) If the plaintiff does not accept in satisfaction of the claim or cause of action in respect of which the payment into Court has been made, the sum so paid in, but proceeds with the action in respect of such claim or cause of action or any part thereof, the money shall remain in Court and be subject to the order of the Court or a Judge, and shall not be paid out of Court except in pursuance of an order. If the plaintiff proceeds with the action in respect of such claim or cause of action, or any part thereof, and recovers less than the amount paid into Court, the amount paid in shall be applied, so far as is necessary, in satisfaction of the plaintiff's claim, and the balance (if any) shall, under such order, be repaid to the defendant. If the defendant succeeds in respect of such claim or cause of action, the whole amount shall, under such order, be repaid to him.

7. The plaintiff, when payment into Court is made before delivery of defence, may within four days after the receipt of notice of such payment, or when such payment is first signified in a defence, may, before reply, accept in satisfaction of the claim or cause of action in respect of which such payment has been made the sum so paid in, in which case he shall give notice to the defendant in the Form No. 4 in Appendix B., and shall be at liberty, in case the entire claim or cause of action is thereby satisfied, to tax his costs after the expiration of four days from the service of such notice, unless the Court or a Judge shall otherwise order, and in case of non-payment of the costs within forty-eight hours after such taxation, to sign judgment for his costs so taxed.

[FORM No. 4 referred to in the foregoing Rules 6 and 7 (*c*).]

Take notice that the plaintiff accepts the sum of £ paid by you into Court in satisfaction of the claim in respect of which it is paid in.

(*c*) See note (*b*) on p. 408*d*.

## THIRD SCHEDULE.

### Table of Fees.

Appointed by the Commissioners, with the concurrence of the Lord Chancellor and of the Treasury, to be taken in relation to the proceedings before the Commissioners.

| | £ | s. | d. | |
|---|---|---|---|---|
| Receiving and filing every application or statement of case, or answer thereto. | 1 | 0 | 0 | Fees in ordinary cases. |
| Receiving and filing every reply, affidavit, or other proceeding. *Note.*—No extra charge is to be made for documents that may accompany any application, answer, reply, or affidavit. | 0 | 2 | 6 | |
| Every summons upon interlocutory proceedings. | 0 | 5 | 0 | |
| Every order made thereon . . . | 0 | 2 | 6 | |
| Attendance by counsel on interlocutory proceedings, each side. | 0 | 10 | 0 | |
| Every subpœna . . . . . . . | 0 | 2 | 6 | |
| Every hearing not in the nature of an interlocutory proceeding, or of an arbitration. | 1 | 0 | 0 | |
| Office copy of proceedings, per folio . *Note.*—Copies of plans, sections, &c., to be paid for by the party requiring them according to the actual cost. | 0 | 0 | 6 | |
| Every commission to take evidence . | 1 | 0 | 0 | Fees on commissions. |
| Every hearing in the nature of an arbitration between railway companies or canal companies, or between railway companies and the Postmaster-General under the Regulation of Railways Acts, 1873 and 1874, or either of them, each day or part of a day. | 15 | 15 | 0 | Fees on hearings in the nature of arbitrations. |
| Every decision of such difference . . | 5 | 5 | 0 | |
| Every hearing in the nature of an arbitration, one of the parties being other than a railway company or canal company, each day or part of a day. | 5 | 5 | 0 | |
| Every decision of such difference . . *Note*—The fee for the hearing is to be paid on each day by the party whose case is then being heard, unless the Commissioners otherwise order. | 2 | 2 | 0 | |

All fees shall be paid by stamps, impressed on the forms applicable to the various forms respectively, which shall be sold in London at the office of the Commissioners, West Front Committee Rooms, House of Lords, S.W. ; at the Inland Revenue Office, Somerset House ; and at the Branch Office, Royal Courts of Justice. In Edinburgh, at the Inland Revenue Office, Waterloo Place ; in Dublin, at the Inland Revenue Office, Custom House ; and at such other places as the Inland Revenue Department may determine.

## FOURTH SCHEDULE.

DIRECTIONS OF THE RAILWAY AND CANAL COMMISSIONERS RELATING TO WORKING AGREEMENTS BETWEEN TWO OR MORE RAILWAY COMPANIES.

1. Care should be taken that at least 28 days from the date of the newspaper containing the first insertion of the notice to the public of the intention of the companies to enter into a working agreement, are allowed for bringing objections before the Railway and Canal Commissioners, and that during the whole of that period a copy of the proposed working agreement is lodged at the Commissioners' office for inspection.

2. At the expiration of the period specified in the notices for bringing objections before the Railway and Canal Commissioners, and together with the application for their approval there should be sent to their office .

(a.) The Act or Acts of Parliament authorising such agreement.

(b.) Copies of the newspapers containing the notices of the intention of the two companies to enter into such agreement which are required by the 24th section of the Railway Clauses Act, 1863.

(c.) Copies of the newspapers containing the advertisements of each company required by the 23rd section of the same Act, convening the special meetings at which the agreement was assented to.

(d.) A copy of the circular which was addressed to each shareholder.

(e.) The agreement, sealed by the companies, together with a certificate given under the hands of the chairman at the meeting, and of the secretary of each company, stating that such agreement was duly assented to by the required proportion of the votes of the shareholders and stockholders, entitled to vote in that behalf at meetings of the company, present (personally or by proxy) at a general meeting of each of the companies specially convened for that purpose, pursuant to the 23rd section of the same Act.

3. The application to the Commissioners for their approval should be made in the manner prescribed by their General Rules of January 1889, Nos. 2 and 6.

The agreement, when approved by the Commissioners, will be returned with their approval signified thereon, and the copy lodged at their office will be retained by them.

NOTE.—*Where the Special Act or Acts authorising the Agreement do not incorporate the Railway Clauses Act, 1863, Part 3, or are of an earlier date, the course of proceeding will be that indicated in the Special Acts.*

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## ORDER OF BOARD OF TRADE AS TO INCREASE OF RATES.

[From *London Gazette* of February 1st, 1889.]

### INCREASE OF RATES.

WHEREAS by sub-section 6 of section 33 of the Railway and Canal Traffic Act, 1888, it is enacted that where a railway company intend to make any increase in the tolls, rates, or charges published in the books required to be kept by the company for public inspection, under section 14 of the Regulation of Railways Act, 1873, or the Railway and Canal Traffic Act, 1888, they shall give by publication in such manner as the Board of Trade may prescribe at least fourteen days' notice of such intended increase, stating in such notice the date

on which the altered rate or charge is to take effect, and that no such increase in the published tolls, rates, or charges of the railway company shall have effect unless and until the fourteen days' notice required under the said section has been given:

Now, therefore, by virtue of the said enactment, the Board of Trade doth hereby prescribe as follows:—

1. Where a railway company intend to increase any toll, rate, or charge published in the books required to be kept by the company for public inspection under section 14 of the Regulation of Railways Act, 1873, and the Railway and Canal Traffic Act, 1888, notice of the intended increase shall not be less than fourteen days before the date on which the increased toll, rate, or charge is to take effect—(*a*) be published once at least in one of the newspapers which has a circulation in the district or in each of the several districts comprising the stations or places the traffic at or between which is subject to the toll, rate, or charge which it is intended to increase; and (*b*) be printed in large type and posted, and afterwards kept posted for a period of not less than twenty-eight days, in a conspicuous place in each of the stations on the company's railway the traffic at or between which is subject to the said toll, rate or charge.

Provided that if a rate which it is intended to increase is one under which no merchandise traffic has been carried on the company's railway during the twelve months immediately preceding the date on which the intended increase of such rate is to take effect, no notice of the intended increase need be published in any newspaper.

2. The notice shall be in the form in the schedule hereto, with any necessary additions, and shall specify with reference to each altered toll, rate, or charge the date on which it is to take effect.

SCHEDULE.

FORM OF NOTICE OF INCREASE OF TOLLS, RATES, AND CHARGES.

*The Railway and Canal Traffic Act*, 1888.

The [*name of company*].

*Notice of Increase of Rates* [*Tolls and Charges*].

Notice is hereby given, pursuant to the Railway and Canal Traffic Act, 1888, and the order of the Board of Trade thereunder, dated the day of , 1889, that the above-mentioned company intend to increase the under-mentioned of the rates (1) published in the books required by Act of Parliament to be kept for public inspection, to the extent and in the manner under-mentioned, and that the altered rates are to come into force on the [*state a date at least fourteen days later than the date of the notice*].

(Signed)

Dated the day of , 1889.

*Alteration of Rates.*

[The alterations must be stated in the manner which is most convenient, having regard to the nature and number of the rates and the manner in which it is intended to alter them.]

# FORM OF PETITION AGAINST BILL, AND FORMS UNDER LANDS CLAUSES ACT(a).



## No. 1.

*Petition against Bill.*

A. and B. Railway Bill.

Against.

Petition of the undersigned against the said bill, praying to be heard by counsel.

To the Honourable the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled.

The humble petition of the several corporations and persons whose seals and names are hereunto respectively set and subscribed:

Showeth,

That a bill is at present depending in your Honourable House intituled "A Bill to make a Railway from A. to B."

That the powers and provisions of the said bill are injurious to the interests of your petitioners, and injurious to public policy [*if clauses only are objected to, say,* "that the powers and provisions contained in certain clauses (*specifying them*) of the said bill"], &c.

That, &c. [*here state grounds of objection, taking care that they are sufficient to give the petitioners a locus standi*].

That in these and other respects the said bill [*or* "clauses"] would be highly injurious to your petitioners, and the preamble of the said bill [*or* "the said clauses"] cannot be substantiated by evidence.

Your petitioners therefore humbly pray that the said bill may not be allowed to pass into a law as it now stands [*or* "that the said clauses be not allowed to form part of the said bill"], and that they may be heard by themselves, their counsel, agents and witnesses against the preamble (*b*) [*or,* "the said clauses of the said bill affecting their interests"]; and that they may have such other and further relief in the premises as to your Honourable House shall seem meet.

And your petitioners will ever pray.

[To be signed by petitioner.]

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## No. 2.

*Certificate of Justices that Capital Subscribed.*

We, A. B., of &c., and C. D., of &c., two of her Majesty's justices of the peace for the county of ——, assembled and acting together in petty sessions at ——, in the said county, on the application of the —— Railway Company, incorporated by an act of Parliament, intituled [*here insert the title of the special act*], and on production of the subscription deeds of the said com-

(*a*) See a list of these forms in the Table of Contents, p. ix.

(*b*) It is necessary to petition against the preamble, if the object is to defeat the bill altogether.

FORMS.

pany, do hereby, by virtue and in pursuance of the authority vested in us by the said act, certify that the whole sum of [*here insert the amount of the capital of the company*], being the whole of the capital or estimated sum for defraying the expenses of the undertaking, as provided by the said act, has been subscribed for by persons under a contract binding themselves, their heirs, executors, and administrators, for the payment of the several sums by the said persons respectively subscribed.

Witness our hands this —— day of ——, in the year of our Lord ——.

A. B.
C. D.

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No. 3.

*Notice to Treat, &c., for Purchase of Lands.*

A. and B. Railway.

C. Branch.

The A. and B. Railway Company, incorporated by an act of Parliament passed in the sixth year of the reign of his late Majesty King William the Fourth, intituled "An act for making a railway from A. to B., with branches to the towns of ——, in the county of ——, and ——, in the county of ——," do hereby, in pursuance of the powers and provisions of the said act; of an act of Parliament passed in the ninth year of the reign of her Majesty Queen Victoria, intituled "An act to amend the acts relating to the A. and B. Railway, and to authorise the formation of a junction railway and several branch railways connected with the same," of "The Lands Clauses Consolidation Act, 1845," and of "The A. and B. Railway (C. Branch) Act, 1852, "give you notice, that they the said company require to purchase and take for the purposes of the said C. branch railway and works authorised by the said acts secondly and last hereinbefore mentioned, a certain portion of the lands and hereditaments situate in the parish of ——, in the county of ——, which on the map or plan, and in the book of reference deposited in the year one thousand eight hundred and fifty-four at the office of the clerk of the peace for the said county of ——, as mentioned in the said secondly mentioned act, is numbered ——; and that the said portion of land so required to be purchased and taken by the said company is particularly delineated and described in the map or plan hereunto annexed, and is the part thereon coloured ——, containing in the whole —— or thereabouts: And the said company do hereby further give you notice, that, it appearing to the said company that you, or some or one of you, are or are reputed to be entitled to or interested in the said portion of land, or enabled or entitled to sell and convey or release the same, the said company are willing and hereby offer to treat with you as to the purchase thereof and as to the compensation to be made to you and every of you, and all the parties interested or concerned therein, for the damage that may have been or may be sustained by you and them respectively by reason of the execution of the aforesaid branch railway and works: And the said company do hereby demand of you and every of you the particulars of your several estates and interests in the said portion of land, and of the claims made by you and every of you in respect thereof, and do require you to deliver such particulars at the office of the said company in the city of —— within twenty-one days from and after the receipt hereof, in default whereof the said company will proceed forthwith to procure the amount of the said purchase-money and compensation pay-

able in respect of the said portion of land to be settled in the manner prescribed by "The Lands Clauses Consolidation Act, 1845."

Dated this —— day of ——, one thousand eight hundred and ——.

Signed on behalf of the said A. and B. Railway Company.

——, Secretary.

To A. B. and C. D. and E. F. and all and every other person or persons whom it may concern.

Herewith is sent a schedule of claim, which you are requested to fill up and return.

*Schedule to be filled up by Parties claiming, &c.*

First, state the name, address and description of the party making the claim.

State the particulars of the estate, share and interest in or upon the said lands in respect whereof the claim is made, whether in respect of an estate of freehold, &c.

[*so setting forth, under separate titles, the various particulars which the owners and lessees are required to specify.*] As to the proper mode of serving the above notice on owners and lessees, see 8 Vict. c. 18, ss. 19, 20.

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## No. 4.

*Notice by Claimant requiring Arbitration.*

To the —— Railway Company.

I, A. B., —— of —— in the county of ——, being possessed of, or otherwise well entitled to, certain lands and other premises situate in the parish of ——, in the county of ——, (which said lands and premises are more particularly described in the schedule annexed to the notice hereinafter next mentioned;) having received a certain notice from you the said company bearing date the —— day of ——, demanding from me a statement in writing of the particulars of my estate and interest in certain lands therein mentioned, and required for the purposes of the said company, and also of the claims made by me in respect of the same, do hereby give you notice that I claim an estate of fee simple in possession [*or* "an estate of fee simple in possession subject to a certain lease bearing date the —— day of ——, and granted to one —— for —— years," *or* "an estate in fee, &c., in the said lands which are copyhold of the manor of ——," *or* "an estate for lives," *or* "years," *as the case may be* (*a*).] And I hereby further give you notice that I claim the sum of £——, for the purchase of my interest in the lands specified in the said notice as required for the purposes of the said railway, and for compensation for injury by severance, and other the damage to be sustained by me by reason of the execution of the works of the said railway. And I hereby further give you notice that, unless you

(*a*) The particulars of the estate, share, interest or charge in respect whereof the claim is made should be here inserted, whether in respect of an estate of freehold, copyhold or leasehold tenure: If leasehold, for what term of years: if the claim be on account of any interest or charge, as distinct from an estate in the lands, &c., the particulars of such interest or charge should be stated: and if any claim be made on account of injury or damage caused by the taking of the lands, the particulars should be stated.

FORMS.

the said company agree to pay the sum of money above claimed, it is my desire that the amount to be paid to me in respect of the above claims shall be settled by arbitration in the manner prescribed in "The Lands Clauses Consolidation Act, 1845;" and I do hereby give you notice, that I have by writing under my hand, bearing even date herewith, nominated and appointed ——, of ——, to be the arbitrator on my behalf in the matters aforesaid, and do hereby request you to nominate and appoint some person to act as arbitrator on your behalf in the said matters.

Witness my hand this —— day of ——, A.D. 18—. A. B.

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No. 5.

*Appointment of Arbitrator by the Party demanding Compensation.*

Whereas I, the undersigned A. B., of ——, &c., did on ——, receive a notice in writing from the —— Railway Company (a copy of which is hereunto annexed), requiring certain lands therein mentioned, for the purposes of the said railway, and whereas I have been unable to agree with the said company as to the sum of money to be paid to me for the purchase of the same, and for the compensation for injury by severance and other the damage to be sustained by me by reason of the execution of the works of the said railway; and whereas by a notice in writing under my hand bearing even date herewith, and directed to the said company, containing the several particulars prescribed in that behalf in "The Lands Clauses Consolidation Act, 1845," I have signified to the said company my desire to have the question of compensation in relation to the matters in the said notice contained settled by arbitration: Now therefore, in pursuance of the provisions of the said Lands Clauses Consolidation Act, 1845, I do hereby nominate and appoint C. D., of ——, to be the arbitrator, on my behalf, of and concerning the premises.

As witness my hand, this —— day of ——, 18—. A. B.
Witness ——.

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No. 6.

*Notice of the appointment of an Arbitrator by a Claimant after the Company have appointed one.*

To the —— Railway Company, and to —— Esquire, the Secretary to the —— Company, and to all whom it may concern:

I, the undersigned ——, of ——, in the parish of ——, in the county of York, do hereby give you notice that, pursuant to your notice and request, bearing date the —— day of ——, under the hand of the said ——, reciting that disputes had arisen as to the compensation to be paid to me for my land situate in the parish of ——, in the county of ——, required to be taken for the said —— Railway Company, and for injury to my said land and estate by the works of the said company in the said notice more particularly mentioned and referred to, and giving me notice that you had appointed —— of the parish of ——, in the county of ——, land agent and land valuer, to be an arbitrator on your behalf, to whom you had referred such questions and disputes, and requiring me to appoint an arbitrator on my behalf to whom such questions and disputes might be referred, I have,

by writing under my hand bearing date this —— day of —— instant, nominated and appointed —— of ——, in the parish of ——, in the West Riding of the County of York, gentleman, to be the arbitrator on my part and behalf, to whom the said question of disputed compensation shall be referred; a copy of which appointment is hereunto annexed, and the said appointment and nomination will be immediately delivered to the said —— as such arbitrator as aforesaid.

Witness my hand this —— day of ——, one thousand eight hundred and ——. F. H.

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## No. 7.

*Notice to Arbitrators requiring them to appoint an Umpire.*

To Mr. —— of ——, in the parish of ——, in the county of ——, gentleman; and to Mr. —— of ——, in the parish of ——, in the county of ——, land agent:

Whereas the —— Railway Company have, by their appointment in writing under the hand of —— their secretary, bearing date the —— day of ——, pursuant to "The Lands Clauses Consolidation Act, 1845," appointed you the said —— to be the arbitrator on the said company's behalf, to settle certain questions, disputes and differences between me the undersigned —— and the said —— Railway Company, set forth and referred to in the said appointment; and I the said —— have, by an appointment in writing under my hand bearing date the —— day of ——, pursuant to "The Lands Clauses Consolidation Act, 1845," appointed you the said —— to be the arbitrator on my behalf, to settle certain questions, disputes and differences between me the said —— and the said —— Railway Company, set forth and referred to in the said appointment, being the same questions, disputes and differences as are referred to or set forth in the appointment of the arbitrator of the said —— Railway Company, and I have delivered the said nomination and appointment to you the said——: Now I, the said ——, being one of the parties to such arbitration, do hereby request you the said arbitrators, before you enter upon the matters referred to you, to nominate and appoint, by writing under your hands, an umpire to decide on any such matters so referred to you as aforesaid, on which you shall differ, or which shall be referred to such umpire under the provisions of "The Lands Clauses Consolidation Act, 1845," or "The —— Railway Act, 1846;" and in case for seven days after this request you shall neglect to appoint an umpire, I shall apply for the appointment of an umpire to decide on any such matters so referred to you on which you shall differ, or which shall be referred to such umpire under the provisions of "The Lands Clauses Consolidation Act, 1845," or "The —— Railway Act, 1846," pursuant to the twenty-eighth section of "The Lands Clauses Consolidation Act, 1845," in that behalf.

Witness my hand the —— day of ——, one thousand eight hundred and ——. T. H.

FORMS.

No. 8.

*Notice from Owner requiring Compensation requiring Arbitration.*

To the —— Railway Company.

Whereas, in exercise of the powers contained in the act or acts of Parliament, under which you are authorised to make and construct a certain railway from —— to ——, you have entered upon [*or* "and taken"] certain parcels of land [*here describe the lands with particularity, as in the notice, Form No.* 3, *ante*], for the purpose of making spoil banks and side cuttings thereon [*or* "for the purpose of obtaining therefrom materials for the construction [*or* 'repair'] of the said railway [*describe the injuries done to the lands according to the facts*]], and for other purposes connected with the construction of the said railway, whereby the said lands have been damaged and injuriously affected* : Now I, the undersigned A. B., being the owner in fee simple of the above-mentioned lands, do hereby, in pursuance of the statutes in that case made and provided, give you the said company notice, that I require you to pay me compensation in respect of my said lands, which you have damaged and injuriously affected [*or* "taken"] as aforesaid, and in respect of my interest therein, and that the amount of my claim for compensation, by reason of the premises, is £——. And further take notice, that, unless you are willing to pay to me the said sum of £——, and shall enter into a written agreement for that purpose within twenty-one days after the receipt by you of this notice, then it is my desire that the amount of compensation to be paid to me by you by reason of the premises shall be ascertained by arbitration, according to the provision of the act or acts of Parliament in that case made and provided. And if you fail to pay me the said sum of £——, or to enter into such written agreement as aforesaid, within the said twenty-one days, then and in that case I do hereby request and require you to nominate and appoint an arbitrator to act on your behalf in the matter of the said arbitration.

Witness my hand this —— day of ——, in the year of our Lord, 18—.

A. B.,
of [*insert address*].

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No. 9.

*A similar Form, where the Owner requires a Jury.*

To the —— Railway Company.

Whereas, &c. [*as in the Form No.* 8, *supra, to** ; *then proceed as follows :*] Now I, the undersigned A. B., being the owner in fee simple of the above-mentioned lands, do hereby, in pursuance of the statutes in that case made and provided, give you the said company notice, that I require you to pay me compensation in respect of my said lands, which you have damaged and injuriously affected [*or* "taken"] as aforesaid, and in respect of my interest therein, and that the amount of my claim for compensation, by reason of the premises, is £——. And further take notice that, unless you are willing to pay to me the amount of the compensation so claimed, and shall enter into a written agreement for that purpose within twenty-one days after the receipt by you of this notice, then it is my desire that the amount of the compensation to be paid to me by you by reason of your entering on such lands as aforesaid shall be settled by a jury, according to the provisions contained in the act or acts of Parliament in that case made and provided.

And if you the said company fail to pay the said sum of £——, or to enter into such written agreement as aforesaid, then and in that case I do hereby request and require you within twenty-one days after the receipt of this notice, to issue your warrant to the sheriff of —— [*here insert the county*], or other proper officer, to summon a jury [*if a special jury is desired, alter the form accordingly; see* 8 *Vict. c.* 18, *s.* 54, *ante*] for settling the amount of the said compensation.

Witness my hand this —— day of ——, in the year of our Lord 18—.

A. B.,
of [*insert address*].

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## No. 10.

*Notice from a Tenant in Tail, &c., requiring Compensation to be settled by Arbitration.*

To the —— Railway Company.

Whereas, &c. [*as in the Form No. 8, supra, to*; then proceed as follows:*] Now I, the undersigned A. B., being the tenant in tail [*or* "being committee of E. F., Esq., a lunatic, the owner in fee simple," *as the case may be, setting forth the estate and interest of the parties in the lands: see Form, No. 4, ante*, p. 411] of the above-mentioned lands, do hereby, in pursuance of the statutes in that case made and provided, give you the said company notice, that I require you to pay compensation in respect of the said lands, which you have damaged and injuriously affected [*or* "taken"] as aforesaid, and in respect of my estate and interest therein, and that the amount of the claim for compensation, by reason of the premises, is £——. And further take notice, that, unless you are willing to pay or deposit the said sum of £——, and shall enter into a written agreement for that purpose, within twenty-one days after the receipt by you of this notice, then it is my desire that the amount of compensation to be paid by you by reason of the premises shall be ascertained by arbitration, according to the provisions of the said statutes in that case made and provided. And if you the said company fail to pay or deposit the said sum of £——, or to enter into such written agreement as aforesaid within the said twenty-one days, then and in that case I do hereby request and require you to nominate and appoint an arbitrator to act on your behalf in the matter of the said arbitration.

Witness my hand this —— day of ——, in the year of our Lord 18—.

A. B.,
of [*here insert address*].

---

## No. 11.

*A similar Form where Tenant in Tail, &c., requires a Jury.*

To the —— Railway Company.

Whereas, &c. [*as in the Form, No. 8, supra, to*; then proceed as follows:*] Now I, the undersigned A. B., being the tenant in tail [*or* "being committee duly appointed of E. F., Esq., a lunatic, the owner in fee simple," *as the case may be, setting forth the estate and interest of the parties in the lands; see Form, No. 4, ante*] of the above-mentioned lands, do hereby, in pursuance of the statutes in that case made and provided, give you the said

FORMS.

company notice, that I require you to pay compensation in respect of the said lands which you have damaged and injuriously affected [*or* "taken"] as aforesaid, and in respect of my estate and interest therein, and that the amount of the claim for compensation by reason of the premises is £——. And further take notice, that, unless you are willing to pay or deposit the amount of the compensation so claimed, and enter into a written agreement for that purpose within twenty-one days after the receipt by you of this notice, then it is my desire that the amount of the compensation to be paid by you by reason of the premises shall be settled by a jury according to the provisions contained in the statutes in such case made and provided. And, if you fail to pay or deposit the said sum of £——, or to enter into such written agreement as aforesaid, then and in that case I do hereby request and require you, within twenty-one days after the receipt by you of this notice, to issue your warrant to the sheriff of —— [*here insert the county*], or other proper officer, to summon a jury [*if a special jury is desired, alter the form accordingly; see* 8 *Vict. c.* 18, *s.* 54, *ante*, p. 71] for settling the amount of the said compensation.

Witness my hand this —— day of ——, in the year of our Lord 18—.

A. B.,
of [*here insert address*].

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No. 12.

*Notice by Company Three Weeks before Lands entered for Temporary Occupation.*

—— Railway.

The —— Railway Company, incorporated by virtue of an act, intituled [*insert the title of the special act*], hereby give you and each and every of you notice, that, under the provisions of the said act, the temporary possession of certain pieces or parcels of land, called ——, situate in the parish of——, in the county of ——, containing by estimation —— A. —— R. —— P. or thereabouts, which said pieces or parcels of land are more particularly delineated and described in the plan and schedule hereunto annexed [*as the case may be, as in the notice, Form No.* 3, *ante*, p. 410], is required by the said company, for the purpose of carrying into execution the purposes of the said act; and further take notice,* that they the said company intend, at the expiration of three weeks from the service upon you of this notice, to occupy the said lands, so long as may be necessary for the construction [*or* "repair"] of the said railway and the accommodation works connected therewith, and to use the same as they are authorised in that behalf by the said act or otherwise; that is to say, for the purpose of taking earth or soil by side cuttings therefrom [*or* "for the purpose of depositing soil thereon," *or* "for the purpose of obtaining materials therefrom for the construction [*or* 'repair'] of the said railway and accommodation works," *as the case may be*]. And, in pursuance of the directions contained in the said railway act, and a certain act incorporated therewith, intituled "The Railways Clauses Consolidation Act, 1845," you and each and every of you are hereby informed, that by sections 39, 42, 43 and 44 of the said last-mentioned act the following provisions are made respecting the right of the owners and occupiers of lands, whereof temporary occupation is required, to require the company to purchase any such lands, or to receive compensation for the temporary

occupation thereof; that is to say, by section 39 [*here the foregoing sections may be given at length, or the substance only may be stated*].

Witness our hands this —— day of ——, in the year of our Lord 18—.

A. B. } *Directors of the said railway*
C. D. } *company.*

[*Or* "E. F., *Treasurer* [or '*Secretary*'] *of the said railway company.*"]

To A. B., Esq., owner, and C. D. and E. F., occupiers of the lands above mentioned, and to all other persons whom it may concern.

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## No. 13.

### *Notice by Company Ten Days before Lands are Temporarily Occupied.*

—— Railway.

The —— Railway Company, incorporated, &c. [*as in the foregoing Notice, No 12, to*; then proceed as follows:*] that they the said company intend, at the expiration of ten days from the service upon you of this notice, to occupy the said lands as long as may be necessary for the construction [*or* "repair"] of the said railway and the accommodation works connected therewith, and to use the same as they are authorized in that behalf by the said act or otherwise, for the purpose of, &c. [*here insert any special purpose requiring only ten days' notice: see sect.* 33]. And, in pursuance of the directions contained in the said act, and in a certain act incorporated therewith, intituled "The Railways Clauses Consolidation Act, 1845," you and each and every of you are hereby informed that by sections 39, 43 and 44 of the said last-mentioned act the following provisions are made respecting the right of the owners and occupiers of lands to demand and receive compensation in all cases where temporary possession of lands for the purposes aforesaid shall be taken by the company by virtue of the powers in the hereinbefore-mentioned act or acts contained; that is to say, by sect. 39 [*here the foregoing sections may be given at length, or the substance only may be stated*].

Witness our hands this —— day of ——, in the year of our Lord, 18—.

A. B. } *Directors of the said railway*
C. D. } *company.*

[*Or* "E. F., *Secretary* [or '*Treasurer*' *of the said railway company.*"]

To A. B., Esq., owner, and C. D. and E. F., occupiers of the lands within mentioned, and to all other persons whom it may concern.

[As to the proper mode of serving the foregoing notices, see 8 Vict. c. 20, s. 34, ante.]

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FORMS.

## No. 14.

*Notice from Owner or Occupier to the Company requiring them not to use land for temporary purposes.*

To the —— Railway Company.

Whereas, by a certain notice under the hand of A. B. and C. D. [*as the case may be*], bearing date the —— day of —— last, I am informed that you intend to occupy (for temporary purposes) and use certain lands [*or* "lands and materials" belonging to me [*or* "in my occupation"], situate at, &c., for the purposes in the said notice particularly mentioned: [*This recital will vary according to the nature of the notice which the company may have given:*] Take notice, that I the undersigned ——, as the owner [*or* "occupier"] of such lands, do hereby, in pursuance of the statute in that case made and provided, object to your making use of such lands, or of any part or parcel thereof [*as the case may be*]*; and that the ground of my said objection is, that the lands proposed by you to be taken as aforesaid [*or* some part thereof, and the materials contained therein] are essential to be retained by me [*or, if the notice is given by the occupier,* "by A. B., Esq., the owner thereof"], in order to the beneficial enjoyment of other neighbouring lands belonging to me [*or* "to him"]. And further take notice, that you are hereby required not to enter upon or use the said lands in any manner whatsoever, and that it is intended forthwith to apply for an order of justices to prevent the said lands [or "lands and materials"] from being at any time taken or used by you.

Witness my hand this —— day of ——, in the year of our Lord 18—

A. B., *owner* [or "*occupier*"] *of the said lands.*

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## No. 15.

*Notice from Owner or Occupier to Company requiring them not to use lands for temporary purposes, on the ground that other lands are more fitting to be used.*

To the —— Railway Company.

Whereas, by a certain notice, &c. [*as in the foregoing notice, Form No.* 14, *to* *; *then proceed as follows:*] and that the ground of my said objection is, that certain lands called or known by the name of ——, situate at ——, in the occupation of one —— [*as the case may be, describing the lands accurately*], being lands lying contiguous or near to those proposed by you to be taken for the said purposes in the said notice mentioned, are more fitting to be used for such purposes by you the said company. And further take notice, that you are hereby required not to enter upon or use the said lands referred to in your said notice in any manner whatever, and that it is intended forthwith to take the necessary steps to prevent the said lands [*or* "lands and materials"] from being at any time taken or used by you.

Witness my hand this —— day of ——, in the year of our Lord 18—.

A. B., *owner* [or "*occupier*"] *of the said lands.*

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No. 16

*Order of Justices that lands for temporary purposes shall not be taken, the same being necessary for the beneficial enjoyment of other lands.*

—— } Whereas it hath been made to appear unto us, A. B. and C. D., two of to wit. } her Majesty's justices of the peace acting in and for the said county, in petty sessions assembled, that the —— Railway Company did, by notice in writing, under the hand of the secretary of the said company, bearing date ——, and addressed to A. B., of ——, give notice that they intended to enter upon certain lands, situate, lying and being in the aforesaid county of ——, belonging to the said A. B., more particularly mentioned and described in the said notice, for the purpose [*as specified in the notice*]; and that the said A. B. did, by notice in writing to the said company, within ten days after the service of such first-mentioned notice, object to the said company making use of such lands, on the ground* that the lands proposed to be taken for such purposes are essential to be retained by him, the said A. B., in order to the beneficial enjoyment of other neighbouring lands belonging to him; and whereas the said company, being duly summoned, and also the said A. B. did come and appear before us the said justices: Now we the said justices, having duly considered the circumstances of the case, and having inquired into the truth of such ground of objection on the part of the said A. B., do, for the reason hereinafter assigned, hereby order that the said company shall not take or use, without the previous consent, in writing, of the said A. B., any of the lands or materials in the said notice alleged to be required by the said company, and so proposed to be taken, on the ground that the said lands are essential to be retained by the said A. B., in order to the beneficial enjoyment of his other neighbouring lands, by reason that the occupation of the lands for the purposes aforesaid, by the said company, would [*here state the special reasons*].

Given under our hands and seals this —— day of ——, A.D. 18—

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No. 17.

*Order of Justices that lands other than those originally required by the Company shall be taken.*

—— } [*As above to**, *then proceed as follows:*] That other lands in the to wit. } said county of ——, lying contiguous or near to those proposed to be taken, belonging or reputed to belong to C. D., and in the occupation of E. F., and which are authorized to be taken by the said company for the purposes aforesaid, under the provisions of the said acts, are sufficient in quantity for the purposes of, and are more fitting to be used by the said company; and whereas the said company have refused and still refused to occupy such last-mentioned lands, in lieu of those mentioned in the notice served by them upon the said A. B.; and whereas the said company and the said C. D. and E. F. being duly summoned, together with the said A. B., did come and appear before us, the said justices: Now we, the said justices, having heard the evidence of the said several parties and their respective witnesses, and considered the circumstances of the case, do order and determine that the said company do use, and we do hereby authorize them to occupy and use accordingly, the lands belonging to the said C. D., and in the occupation of the said E. F. [*describing the lands*], for the pur-

FORMS.

poses aforesaid, instead and in lieu of the lands of the said A. B., originally proposed to be taken by the said company, as aforesaid.

Given under our hands and seals this —— day of ——, A.D. 18—.

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## No. 18.

*Notice where the owner of lands taken for temporary purposes requires the Company to purchase.*

To the —— Railway Company.

Whereas, in exercise of the powers contained in the act or acts of Parliament under which you are authorized to make and construct a certain railway from —— to ——, you have entered upon certain parcels of lands [*here describe the lands with particularity*], for the purpose of making spoil banks and side cuttings thereon [*or* " for the purpose of obtaining therefrom materials for the construction [*or* 'repair'] of the said railway," *as the case may be*] and for other purposes connected with the construction of the said railway; and whereas, by the said act or acts of Parliament, authority is given to the owners or occupiers of lands so entered upon as aforesaid, or to parties having such estates or interests therein as, under the provisions in the said act or acts mentioned, would enable them to sell or convey lands, to serve notice in writing on the company who shall have entered on such lands for the purposes aforesaid, requiring them to purchase such lands or the estates and interests therein capable of being sold and conveyed:* Now I the undersigned A. B., being the owner in fee simple of the above-mentioned lands, do hereby, in pursuance of the authority aforesaid, give you the said company notice, that I require you to purchase the said lands of me, and all my estate and interest therein, and that the amount of my claim for compensation or purchase-money is £—— [*The following addition may be made to this notice, if it is considered desirable:*— And further take notice, that unless you the said company are willing to pay to me the said sum of £——, then it is my desire that the amount of compensation to be paid to me by you for the purchase of the said lands shall be ascertained by arbitration, according to the provisions of the act or acts of Parliament in such case made and provided: and I hereby require you the said company to nominate and appoint an arbitrator to act on your behalf in the matter of the said arbitration. (*If the arbitrator be named, see Forms Nos.* 4 *and* 5.)]

Witness my hand this —— day of ——, in the year of our Lord 18—

A. B.,
of [*insert address*].

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## No. 19.

*Similar form where tenant in tail, &c., requires Company to purchase.*

To the —— Railway Company.

Whereas, &c. [*as in the Form No.* 18 to*, *then proceed as follows:*] Now I, the undersigned A. B., being the tenant in tail [*or* " being committee duly appointed of A. B. Esq., a lunatic, the owner in fee simple," *as the case may be, setting forth the estate and interest of the parties in the lands; vide Form No.* 4, *ante*, p. 411] of the above-mentioned lands, do hereby, in pursuance

of the authority aforesaid, give you the said company notice, that I require you to purchase the said lands and the estate and interest therein capable of being sold and conveyed by me, and that the amount of the claim for compensation by reason of the premises is £ —— ; and that on payment or deposit thereof, I am ready to make a conveyance of the said lands to you. [*A notice requiring an arbitration, as at the foot of Notice No.* 18, *supra, may be here added.*]

Sect. 44 enacts that the amount of compensation in the foregoing cases shall be determined in the manner provided by the Lands Clauses Consolidation Act, for determining the amount of compensation to be paid for lands taken under the provisions of that act. Reference must therefore be made to sect. 21 and the following sections of that act. The result seems to be, that, unless the claimant has demanded an arbitration, the company on the receipt of the Notices, Nos. 18 and 19, should, in pursuance of sect. 38, proceed to issue a warrant to the sheriff, first giving notice of their intention to the claimant, and stating what sum of money they are willing to pay for the lands. The notice may be in the following form :—

No. 20.

*Notice from Company to Owner, &c. of lands which Company have been required to purchase under sect.* 68, *that they intend to issue warrant to Sheriff, &c.*

The —— Railway Company.

Whereas, by a certain notice in writing under your hand, directed to us, the above-mentioned railway company, bearing date on or about the —— day of ——, A.D. ——, in which it is recited that we the said company, in exercise of the powers contained in the act or acts of Parliament under which we are authorized to make and construct a certain railway from —— to ——, had entered upon certain parcels of land in the said notice particularly mentioned, for the purpose, &c. [*reciting the notice according to the facts*]; and whereas we the said company are not willing to pay the said sum of £ —— so required by you as and for compensation, as in the said notice is mentioned: Now we the said company, do hereby, in pursuance of the statute or statutes in such case made and provided, give you notice that we intend, after the expiration of ten days from the service upon you of this notice, to issue our warrant to the sheriff or other proper officer of the county of ——, and to cause a jury to be summoned to inquire of and determine the sum of money to be paid by us the said company for the purchase of the fee simple in possession, free from incumbrances [*here state the interest which is to be purchased*], of the pieces or parcels of land mentioned in your said notice. And further take notice, that we the said railway company are willing to give the sum of £ —— for [the fee simple and inheritance in possession, *or as the case may be*] of the said pieces or parcels of land and appurtenances thereunto belonging. [*If damage has been done by severance or otherwise, alter the form accordingly.*]

Witness our hands this —— day of ——, A.D. ——.

G. H. } *Directors of the said railway*
I. K. } *company.*
[*Or* " L. M., *Secretary* [or '*Treasurer*'] *of the said railway company.*"]

FORMS.

If the claimant desires that a special jury should be summoned, he should forthwith, on the receipt of the above notice, give notice of such his desire. The following may be the form :—

No. 21.

*Notice from Owner to Company requiring Special Jury.*

To the —— Railway Company.

I, the undersigned A. B., having received from you a notice, dated the —— day of ——, and signed by ——, stating your intention to cause a jury to be summoned for the purpose of assessing and determining the sum of money to be paid by you for the purchase in fee simple in possession [*as the case may be*] of the pieces or parcels of land belonging to me, described or referred to in the said notice, do hereby give you notice that it is my desire, which I do hereby signify to you, that such question of compensation as aforesaid shall be tried before a special jury in the manner mentioned in, and for such case provided by, the Lands Clauses Consolidation Act, 1845.

Witness my hand this —— day of ——, A.D. 18—.

A. B.
of [*here insert address*].

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No. 22.

*Notice from Company that Private Road will be required for temporary use.*

—— Railway.

The —— Railway Company, incorporated by virtue of an act, intituled [*insert the title of the special act*], hereby give notice to you, and each and every of you, that under the powers in the said act contained, the said company intend, at the expiration of three weeks from the service hereof, to enter upon and use a certain private road, situate in the parish of ——, in the county of,—— and called —— lane [*describing the road with particularity*] (the same being a road which the said company are by the said act authorized to use), and that they the said company intend to use the said road for the purpose of passing and re-passing thereon, by themselves, their engineers, contractors, agents, servants, workmen, labourers and other persons employed in and about the construction of the said railway, and the works connected therewith, and also by and with such horses, carts, waggons and other carriages (whether loaded or unloaded), as may be necessary for constructing the said railway and works, and otherwise carrying the said act into execution. And further take notice, that the said company require and intend to occupy and use the said road in manner aforesaid for the space of —— months from the expiration of the said period of three weeks after the service hereof, and that they are willing to pay to you, and all parties entitled, such compensation for the use and occupation of such road as may be agreed upon, or as shall be otherwise settled according to law.

As witness our hands [*or* "my hand"] this —— day of ——, in the year of our Lord ——.

E. F. *and* G. H., *Directors of the said company* [*or* "I. K., *Secretary*," or "*Treasurer*" *of the said company*].

To A. B., Esq., owner, and C. D., Esq., occupier, of the road mentioned in the above notice, and to all other persons whom it may concern.

No. 23.

*Notice from Owner, &c. of Private Road to Company requiring them not to use the Road.*

To the —— Railway Company.

Whereas, by a certain notice under the hands of A. B. and C. D. [*as the case may be*], bearing date the —— day of —— last, I am informed that you intend to enter upon, occupy and use a certain private road belonging to me, in my occupation, and situate on lands belonging to me, situate at &c.: Take notice, that I, the undersigned E. F., being the owner and occupier of such road, and being the owner of the lands over which the said road passes, do hereby, in pursuance of the statute in that case made and provided, object to your making use of such road, or of any part thereof; and the ground of my said objection is, that there is another private road [*or* "there is a public road]," situate in the parish of ——, and called —— lane [*particularly describing the road*], which you, the said company are authorized to use for the purposes in your said notice mentioned, and which said road is more fitting to be used for the said purposes than the road mentioned in your said notice. And further take notice, that you are hereby required not to enter upon or use the said road, referred to in your said notice, in any manner whatsoever, and that it is intended forthwith to apply for an order of justices, to prevent the said first-mentioned road from being taken or used by you.

Witness my hand this —— day of ——, in the year of our Lord ——.

E. F.,
of [*place of abode*].

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No. 24.

*Notice from Company to Owner that they intend to issue Warrant to Sheriff.*

The —— Railway Company.

Whereas, by virtue and under the authority of an act of Parliament, intituled [*here insert the title of the special act*], we, the —— Railway Company, by a certain notice, bearing date the —— day of ——, informed you, A. B. and C. D., &c., that all those parcels of lands, tenements and hereditaments mentioned and described in the schedule to the notice annexed [*or* particularly described in a map or plan to the notice also annexed, *as the case may be, see Form, No. 3, ante,* 410], situate at, &c., belonging or reputed to belong to you [*or* some or one of you], or in which you [*or* some or one of you] had or claimed some estate or interest, were required to be taken and used by the said railway company, incorporated by the said act, for the purposes thereof as in the said notice is particularly mentioned; and whereas you, the said A. B. and C. D., &c., have failed to state the particulars of your claims for purchase-money or compensation for injuries or damage in respect of the said lands, tenements and hereditaments, or to treat with the said company in respect thereof, as by the said notice you were required to do [*or* "and whereas we the said company and you the said A. B. and C. D., &c. have not agreed, and we cannot agree, as to the amount of the purchase-money or compensation to be paid by us the said company to you for the purchase of the said hereditaments and of your estate and interest therein, *or* of the estate and interest therein which by the said act you are enabled to sell and convey, and for any damage which might be sustained by you by reason of the execution

FORMS.

of the said railway works :"] Now we the said company hereby, in pursuance of the said act, give you notice that it is the intention of the said company, after the expiration of ten days from the service of this notice, and in pursuance of the provisions in the said act contained, to issue our warrant to the sheriff or other proper officer of the county of ——, and to cause a jury to be summoned to inquire of and assess the amount of such purchase-money and compensation as aforesaid, which you or either of you are entitled to receive under the provisions of the said act. And further take notice, that we the said company, are willing to give the sum of —— pounds for the purchase of the absolute and unencumbered fee simple and inheritance in possession of the said lands, tenements and hereditaments, including your estate and interest therein, and the estate and interest therein which by the said act you are enabled to sell and convey, and for any damage or injury, by severance or otherwise, which may be sustained by you the said A. B., C. D., &c., by the execution of the said railway works.

Witness our hands the —— day of ——, A.D. ——.

G. H. } *Directors of the said*
I. K. } *railway company.*
[*Or*, "L. M., *Secretary*, &c."

To A. B., Esq., and C. D., Esq., and all other parties claiming satisfaction or compensation for the above-mentioned hereditaments, or any estate, share, interest or charge in or affecting the same, or for any injury or damage occasioned by the taking of the said hereditaments by the said company, or otherwise by reason of making of the said railway, or on account of the execution of the said act, and to all other persons whom it may concern.

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## No. 25.

*Warrant from the Company to the Sheriff requiring him to summon a Jury.*

To the —— Railway Company.

[*The name of the County*] to wit. } To the Sheriff of the county of ——.

Whereas the —— Railway Company, established and incorporated by an act of parliament made and passed in the —— year of the reign of her Majesty Queen Victoria intituled the —— Railway Act, 18—, in which act are incorporated the Lands Clauses Consolidation Act, 1845, the Companies Clauses Consolidation Act, 1845, and the Railways Clauses Consolidation Act, 1845, on or about the —— day of —— gave to and duly served upon A. B. [*the owner*], of, &c., a notice in writing, addressed to him and bearing date the —— day of ——, and signed by ——, the secretary of the said company, which notice was in the words or to the effect following [*here copy the notice*] : "And on or about the —— day of —— the said company also gave to and duly served upon C. D. [*the second party served*], of, &c., a notice in writing addressed to him, and bearing date the said —— day of ——, and signed by the said ——, as such secretary as aforesaid, which last-mentioned notice was in the words or to the effect following, that is to say" [*here copy the second notice*]: And

whereas each of them the said A. B. and C. D. failed to treat with the said company in respect of the pieces or parcels of land and other hereditaments described or referred to in the schedule written under the notice to him given, and addressed as aforesaid, for the space of twenty-one days next after the service upon him of the same notice, and thereupon the said company, in pursuance of the provisions contained in the said Lands Clauses Consolidation Act, 1845, gave to and duly served upon the said A. B. and C. D. respectively the several notices next hereinafter mentioned or referred to, that is to say, on or about the —— day of ——, the said company gave to and duly served upon the said A. B. a notice in writing addressed to him, dated the —— day of ——, and signed by the said ——, as such secretary as aforesaid, which notice was in the words or to the effect following, that is to say [*here copy the notice of intention to summon a jury*], and on or about the —— day of —— the said company gave to and duly served upon the said C. D. a notice, &c. [*copying it*]: And whereas on or about the —— day of ——, the said A. B. and C. D. gave to and duly served upon the said company notice in writing, addressed to them, dated respectively the —— day of ——, and signed by the said A. B. and C. D. respectively, which notice was in the words or to the effect following, that is to say [*here copy the notice (if any) for a special jury*]: Now therefore we the said —— railway company, in pursuance of and in obedience to the provision contained in the said Lands Clauses Consolidation Act, 1845, do by this our warrant, under our common seal, issued to you the sheriff of the said county of ——, require you to summon a jury in compliance with the directions of the same act, to determine by their verdict the sum or sums of money to be paid by the said company for the purchase by them in fee simple possession of the said pieces or parcels of land described or referred to in the said notice of the —— day of ——, and the appurtenances thereto belonging; and also the sum or sums of money to be paid by the said company for the damage (if any) to be sustained by the owner of the said pieces or parcels of land and other premises by reason of the severing thereof from the other lands of such owner, or otherwise injuriously affecting such lands, by the exercise of the powers of the said Lands Clauses Consolidation Act, 1845, or the said —— Railway Act, 18—, or any act incorporated therewith. [*If the question is to be tried before a special jury, say* —"And the said —— Railway Company, in pursuance of the said several notices of the said A. B. and C. D. respectively in this behalf, and in further obedience to the provisions of the said Lands Clauses Consolidation Act, 1845, do by this their warrant also require you the said sheriff to nominate a special jury for such trial."]

Given under our common seal this —— day of ——, A.D. 18—.

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## No. 26.

*Another and more special form of Warrant from the Company to the Sheriff, requiring him to summon a Jury.*

[*The name of the county*] to wit. } To the Sheriff of ——.

Whereas, we the —— Company, incorporated by an act of Parliament, intituled [*insert title of special act*], and by the said act authorized to purchase or take for the purposes thereof the lands, tenements and hereditaments hereinafter particularly mentioned, by a notice in writing, bearing date the —— day of ——, duly given by us in pursuance of the said act, did inform

FORMS.

A. B., C. D., &c., that the said lands, tenements and hereditaments belonging or reputed to belong to them [*or* "some or one of them"] or in which they [*or* "some or one of them"] claimed some estate or interest, were required to be taken and used by us the said railway company for the purposes of the said act; and that the said company were willing to treat for the absolute purchase of the said lands, tenements and hereditaments, and of the interest of them the said A. B. and C. D., &c. therein, or which they were by law enabled to sell and convey, and as to the compensation to be made to them the said A. B., C. D, &c., and all parties interested, for the damage or injury that might be sustained by reason of the execution of the railway works: And whereas the said A. B., C. D., &c., have, for the space of twenty-one days after the service of the said notice, failed to state the particulars of their claims in respect of the said lands, tenements and hereditaments, or to treat with us the said company in respect thereof: [*Or*, "And whereas we the said company, and the said A. B. and C. D., &c., have not agreed and cannot agree as to the amount of the purchase-money or compensation as aforesaid to be paid by us to them:"] And whereas we the said company, by a notice in writing, bearing date the —— day of ——, duly given by us in pursuance of the said acts, did inform the said A. B., C. D., &c. of our intention to cause a jury to be summoned to assess such purchase-money and compensation as aforesaid; and also of the sum of money we were willing to give for the purchase of the said lands, tenements and hereditaments, and for the damage to be sustained by reason of the execution of the said railway works: Now we the said —— Railway Company do, by this our warrant, in pursuance of the powers conferred upon us in that behalf by the said acts, require you the said sheriff to summon and return a jury of twenty-four indifferent men duly qualified according to law to be and appear before you the said sheriff at some convenient time and place to be appointed by you (such time not being less than fourteen nor more than twenty-one days after the receipt by you of this our warrant, and such place not being more than eight miles distant from the lands hereinafter described), in order that you the said sheriff may cause to be drawn in such manner as juries for trials of issues joined in the superior courts are by law required to be drawn out of the persons so to be summoned, and who shall appear, a jury of twelve men; or if a sufficient number of jurymen do not appear in obedience to the said summons, then that you the said sheriff may return a sufficient number of indifferent men duly qualified as aforesaid of the bystanders or others that can be speedily procured to make up the said jury to the number of twelve, you the said sheriff allowing all parties concerned their lawful challenges against any of the said jurymen according to law; and such jury summoned and drawn shall, upon their oaths, affirmations or declarations, as the case may be, inquire of and assess and give a verdict for the sum or sums of money to be paid by us the said company to the said A. B., C. D., &c., or other the person or persons interested therein for the purchase of the lands, tenements and hereditaments hereinafter mentioned, and for the purchase of every estate, share, right, interest or charge of them the said A. B., C. D., &c., each and every of them, in, upon or affecting the said lands, tenements and hereditaments, or which they, any or either of them are or is by the said act enabled to sell, convey or release [*if the lands are to be severed add the following:* And also for the sum or sums of money to be paid by us the said company for the damage to be sustained by the owner or owners of the said lands, tenements and hereditaments, by reason of the severing thereof from the other lands, tenements and hereditaments of such owner or owners, or otherwise injuriously affecting such lands by the exercise of the powers of the said act of Parliament, or any act or acts incor-

porated therewith], that is to say, firstly, all that piece or parcel of land, &c., situate at a place called——, in the parish of ——, in the said county, containing by estimation — A. — R. — P., or thereabouts, which said piece or parcel of land and premises are delineated and described on the map or plan and book of reference deposited in the office of the clerk of the peace for the said county of —— [*or* all those parcels of land, tenements and hereditaments mentioned in the schedule hereunto annexed, &c., *as in the Form No.* 3, *ante*, 410. *The description of the lands should be accurately stated, and it should agree in all respects with the description in the notice to treat.*]

And the said jury shall also in like manner inquire of and assess and give a verdict for the sum or sums of money to be paid by the said company to the said A. B., C. D., &c., [*each and every of them*], being the parties interested in the said lands, tenements and hereditaments, &c., for all damage sustained by them or any of them by reason of the exercise, as regards such lands, tenements and hereditaments, of the power by the said act vested in the said company. And the said jury shall further, upon their oaths, affirmations or declarations as aforesaid, inquire of and by their verdict ascertain and settle all such other matters and things as they may by virtue of the provisions of the said act or otherwise, be lawfully required to do.

Given under our common seal this —— day of ——, A.D.——.

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## No. 27.

*Notice from the Sheriff to Company of time and place of Inquisition.*

The Sheriff of —— to the —— Railway Company, greeting.

Whereas by a warrant to me directed, under your common seal, bearing date the —— day of ——, I am required to summon a jury to inquire into and assess the purchase-money and compensation to be paid by you the above-mentioned company to A. B. and C. D., &c., in respect of certain lands, tenements and hereditaments in the said warrant mentioned: Take notice, that the said inquiry will be held, in pursuance of the said warrant and of the statute in that case made and provided, on the —— day of —— next at the house of ——, commonly called or known by the name or sign of ——, in —— street, at ——, in the county of ——, at the hour of —— o'clock in the forenoon.

Dated this —— day of —— A.D. ——.

By the same sheriff.
(L.S.)

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## No. 28.

*Notice by Company to Claimant of time and place of Inquisition.*

In pursuance of the provisions of an act of Parliament, intituled [*title of special act*] and of the Lands Clauses Consolidation Act, 1845, notice is hereby given to you, that a jury to be summoned, empanelled and returned according to the provisions of the said acts, will come before the sheriff of the county of ——, at the house of, &c., on ——, the —— day of ——, at —— of the clock in the forenoon of the same day, for the purpose of inquiring of, assessing and giving a verdict for the sum of money to be paid for the purchase of, &c., and which pieces and parcels of land, hereditaments and premises, and the buildings thereon (more particularly mentioned and described in a certain notice in writing from the said company served upon you on the —— day of —— last) are about to be purchased

FORMS.

and taken under the authority of the said acts, to be used for the purposes of the said railway, and whereof, whereto or wherein you or some or one of you are or is possessed, entitled or interested, or are or is reputed so to be, and also the sum of money to be paid by way of satisfaction or compensation to the owners, or reputed owners and occupiers of the said pieces or parcels of land, buildings, hereditaments and premises hereinbefore mentioned, or any of them, or other the persons interested therein respectively, for the damage which, before the said —— day of —— next, shall have been done to or sustained by such owners and occupiers as aforesaid, or any or either of them, or other the persons interested therein, respectively, by reason of the execution of any of the works by the said act authorized; which satisfaction or compensation is to be inquired into and assessed separately and distinctly from the value of the lands, buildings, hereditaments and premises so required to be taken as aforesaid; when and where you and each of you are requested to attend, and when and where you and each of you are hereby required to produce all and every of your grants, leases, agreements for leases, valuations, receipts for rent, and other evidence, papers and writings whatever relating to the said lands, buildings, hereditaments and premises, and the several interests therein aforesaid, or any of them. Dated, &c.

To A. B. and B. C., and to all and every the owners, lessees and occupiers of the said premises, or any of them, and all and every person having any estate or interest therein.

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## No. 29.

### *The Inquisition, Verdict, and Judgment.*

[*The name of the county*] to wit. } An inquisition indented and taken pursuant to the —— Railway Act, 18—, and the Lands Clauses Consolidation Act, 1845, which is incorporated in the said —— Railway Act, 18—, or one of the said acts, at the house of, &c., such house not being more than eight miles distant from the lands hereinafter mentioned, on the —— day of ——, A.D. 18—, before me —— Esquire, sheriff of the said county, by virtue of a certain warrant hereunto annexed, which said warrant was received by me [not less than fourteen nor more than twenty-one days before the said —— day of —— (*the day appointed for the inquiry*)] (*a*) issued under the common seal of the —— and —— Railway Company, established and incorporated by the said —— Railway Act, 18—, on the oaths of [*state the names of the jury*] (*b*), indifferent persons duly qualified to act as common jurymen in the superior courts, and sworn (*c*) to inquire of and concerning the matter by the said warrant

(*a*) Or, instead of the words in brackets, insert—[on the —— day of ——, but the time for summoning the jury hereinafter mentioned was, by the consent of the parties interested, enlarged from the twenty-one days directed by the 41st section of the Lands Clauses Act, 1845].

(*b*) Or, if the facts require it, insert—[such persons alone appearing out of the jury of twenty-four [*if special,* twenty] summoned by me the said sheriff in pursuance of the 41st section of the Lands Clauses Act, 1845, but nevertheless being accepted by the parties interested as a jury in lieu of the jury of twelve persons by the 42nd section of the same act directed to be drawn by me the said sheriff].

(*c*) Or—[having made affirmation].

hereunto annexed directed to be determined, ascertained or settled by them as therein mentioned; (that is to say,) —— [A. B., *the owner*] in the said warrant named, and the —— Railway Company, by their respective counsel, agents or solicitors, having at the place and time aforesaid appeared before me and the jurors aforesaid (*d*), the said jurors on their oaths aforesaid say, that they do assess and give a verdict for the sum of £——, to be paid by the said company for the purchase by them in fee simple in possession, free from incumbrances, of the pieces or parcels of land and other hereditaments described or referred to in the [schedule written under the] said warrant hereunto annexed, and the appurtenances thereto belonging: And the jurors aforesaid, on their oaths aforesaid, further say, that they do assess and give a verdict for the further sum of £—— to be paid by the said company, as and by way of compensation for the damage to be sustained by the owner of the said pieces or parcels of land and other hereditaments by reason of the severing thereof from the other lands of such owner, or otherwise injuriously affecting such lands by the exercise of the powers of the said Lands Clauses Consolidation Act, 1845, or the said —— Railway Act, 18—, or any act incorporated therewith: and I the said sheriff do hereby adjudge and order the said sums of £—— and £—— to be paid by the said —— Railway Company, according to the provisions of the said Lands Clauses Consolidation Act, 1845. In witness whereof I have hereunto set my hand and seal, and the jurors aforesaid have hereunto set their hands and seals, the day and year first above written.

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## No. 30.

### *More special form of Inquisition, Verdict, and Judgment.*

—— shire } to wit. } An inquisition, verdict and judgment had, taken and given at the house of, &c., such house not being more than eight miles distant from the lands hereinafter mentioned, on the —— day of ——, A.D. ——, before me, W. B., Esq., sheriff of the county of ——, pursuant to an act of Parliament, intituled, &c. [*insert title of special act*], on the oaths of Henry Pitt, &c. [*naming the jurors*], indifferent persons, duly qualified to act as common jurymen in the superior courts here, duly empanelled, summoned and returned by me the said sheriff, in pursuance of and in obedience to a warrant made and issued under the common seal of —— Railway Company to me directed and delivered, and hereunto annexed, which said warrant was received by me not less than fourteen nor more than twenty-one days before the said —— day of —— (*the day appointed for the inquiry*); notice in writing having been heretofore duly given to A. B., C. D., &c., by the said company, according to the said act, that the lands, tenements and hereditaments hereinafter mentioned were required to be taken and used for the purposes of the said act, and that the said company were willing to treat for the purchase thereof, and for the purchase of the estate, share, right, interest or charge of the said A. B., C. D., &c., in, upon or affecting the same, or which by the said act they were enabled to sell, convey or release; and as to the compensation to be made to them for the damage that might be sustained by them by reason of the execution of the said railway works; and they the said A. B., C. D., &c., not having, within the space of twenty-one days and more

(*d*) If the facts require it, insert—[and the jurors aforesaid having previously had a view of the said premises].

FORMS.

after the giving of such notice, agreed with the said company as to the amount of the compensation to be paid by the said company for the purchase of the said lands, tenements, hereditaments, or for the purchase of the estate, share, right, charge or interest in, upon or affecting the same, of them the said A. B. and C. D. therein, or which by the said act they were enabled to sell, release and convey; and, as to the amount of the compensation to be paid for any damage which might be sustained by them the said A. B. and C. D., &c., by reason of the execution of the said railway works [*or* "and the said A. B. and C. D., &c., having failed for twenty-one days after the service of such notice to state the particulars of their claims in respect of such lands, tenements and hereditaments, and to treat with the said company in respect thereof"]; and notice in writing having been heretofore duly given to the said A. B. and C. D., &c., by the said company, according to the provisions of the said act, ten days and more before the issuing of the said warrant, of the intention of the said company to issue their warrant, directed to me the said sheriff, to cause a jury to be summoned to inquire of and assess the amount of the purchase-money and compensation to be paid by the said company as aforesaid to the said A. B. and C. D., &c., for the purchase of the said lands, tenements and hereditaments, and in respect of their said estate, share, right, charge or interest therein as aforesaid, and also of the sum of money which they the said company were willing to give for the purchase of the said lands, tenements and hereditaments, and the interest of them the said A. B. and C. D., &c., in such lands, tenements and hereditaments, and for the damage to be sustained by them by the execution of the said railway works; and notice in writing having been also duly given ten days and more before the said —— day of —— [*the date of holding the inquisition*] to the said A. B. and C. D., &c., of the time and place of holding this inquiry, which said H. Pitt, &c. [*naming the jurors*], being duly sworn to inquire of and concerning the matters mentioned in the said warrant, and thereby directed to be inquired of, assessed and ascertained by them in manner therein mentioned; and the said A. B., &c., by their counsel, having, at the time and place aforesaid, appeared before me and the said jurors, and having produced evidence before me and the said jurors touching the matter in question; and the said company named in the said warrant having also, by their counsel, appeared at the time and place aforesaid before me and the said jurors, but having declined to produce any evidence: The said jurors aforesaid, upon their oath aforesaid, say, that they do assess and give a verdict for the sum of £——, to be paid to the said A. B. and C. D., &c., by the said company, for the absolute purchase in fee simple in possession, free from incumbrances, of all those pieces or parcels of lands, &c. [*describing the premises by referring to a schedule or otherwise*], and also for the purchase of all and every the estate, right, share, interest or charge of them the said A. B., C. D., &c., each and every of them, in, upon or affecting the said lands, tenements and hereditaments, or any part or parcel thereof, or which they the said A. B. and C. D., &c., or any or either of them, are or is, by the said act, enabled to sell, convey or release; and also as and for compensation for all damage sustained by the said A. B., C. D., &c., any or either of them, by reason of the execution of the said railway works, or by the exercise, as regards such lands, tenements and hereditaments, of the powers by the said act vested in the said company. [*If the lands are to be severed, add the following*:—(except only compensation for the damage to be sustained by the said A. B., C. D., &c., by reason of the severing of the said lands, tenements and hereditaments from the other lands of the said A. B., C. D., &c., or otherwise injuriously affecting such other lands by the exercise of the said powers); and the said jurors do, in like manner, upon

their oaths as aforesaid, assess and give a verdict for the further sum of ——, to be paid to the said A. B., C. D., &c., by the company, by way of compensation for the damage to be sustained by them by reason of the severing of the said lands, tenements and hereditaments from the other lands of them the said A. B., C. D., &c., or otherwise injuriously affecting such other lands by the exercise of the powers of the said act.] Whereupon I, the said sheriff, in pursuance of the said act of Parliament, do pronounce and give judgment for the said purchase-money and compensation so assessed as aforesaid by the said jurors, amounting together to the sum of £——, to be paid by the said company to the said A. B. and C. D., &c.

In witness whereof, I, the said sheriff, have hereunto set my hand and the seal of my office, and the jurors aforesaid have hereunto set their hands and seals, the day and year first above written.

(L.S.)

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## No. 31.

*Appointment of Surveyors to determine Purchase-money where from Parties under disability.*

To all to whom these presents shall come, the —— Railway Company, incorporated by an act of Parliament intituled the —— Railway Act, 184—, and A. B. [*the tenant for life or other party under disability*], of &c., send greeting: Whereas, by virtue of the above-mentioned act of Parliament, and of the act or acts of Parliament incorporated therewith, the above-named railway company are authorized to purchase and take, for the purposes of the said railway, the several pieces or parcels of land described or referred to in the schedule hereunder written, and the said railway company have given due notice of their intention to take the lands for the purposes aforesaid to the parties interested in the said lands: And whereas, by the last will and testament of ——, deceased, bearing date the —— day of ——, the said pieces or parcels of land, together with other hereditaments, stand limited to the use of the said A. B. for his life without impeachment of waste, with divers remainders over [*this recital will vary according to the circumstances of each case*]: Wherefore, according to the provisions contained in the Lands Clauses Consolidation Act, 1845, the same being one of the acts incorporated with the said —— Railway Act, 18—, it is requisite that the purchase-money or compensation to be paid for the purchase of [*or add*, "and for any permanent damage and injury to,"] the said pieces or parcels of land and hereditaments shall not be less than shall be determined by the valuation of two able practical surveyors, one to be nominated by the said company, and the other by the said A. B.: Now, therefore, be it known, that, in pursuance of and in obedience to the directions of the said act or acts of Parliament in this behalf, the said —— Railway Company do hereby nominate on their behalf C. D., of ——, &c., an able practical surveyor, and the said A. B. doth hereby nominate on his behalf E. F., of, &c., an able practical surveyor, to be the two surveyors for the purpose of determining by their valuation the amount of * the purchase or compensation money to be paid by the said company for the purchase by them in fee simple in possession of the said pieces or parcels of land described or referred to in the said schedule hereunder written, and the appurtenances thereto belonging: [*If the lands are severed from other lands, then add*, "and also for the purpose of determining the amount of the compensation money to be paid by the said company, for

FORMS.

the permanent damage or injury occasioned by the said railway works to such pieces or parcels of land and hereditaments, and to lands and property adjacent thereto, or to any part thereof respectively"]. In witness whereof the said company have affixed their common seal, and the said A. B. has set his hand to these presents, this —— day of ——, A.D. 18—.

[The schedule above referred to.]

All, &c. [*the description of the lands, &c.; see ante.*]

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No. 32.

*Notice of intention to apply to two Justices to appoint a third Surveyor.*

To A. B. [*the tenant for life, &c.*]

This is to give you notice, that C. D. and E. F., the two surveyors who, by a certain nomination in writing, bearing date the —— day of —— now last past, to which the common seal of [*the —— Railway Company, incorporated by the —— Railway Act*, 18—], is attached, and your signature is affixed, were nominated for the purpose of determining by their valuation the purchase-money or compensation [*here shortly recite the contents of the nomination*], cannot agree in the valuation, to make which they were nominated as aforesaid: and therefore, the said —— Railway Company, in pursuance of the power for this purpose given in the Lands Clauses Consolidation Act, 1845, intend to apply on the —— day of —— now next ensuing, to two of her Majesty's justices of the peace assembled and acting together at ——, to nominate a third surveyor to determine all and every the matters by the said nomination or instrument in writing referred to the determination of the said C. D. and E. F. Dated the —— day of ——, 18—.

(Signed) A. B., Secretary of the Railway Company.

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No. 33.

*Nomination of Surveyor by two Justices to determine Compensation where Surveyors appointed by Parties cannot agree.*

To all to whom these presents shall come, ——, of, &c., and ——, of, &c., two of her Majesty's justices of the peace acting in and for the county of ——, send greeting: Whereas, by a certain appointment in writing, bearing date on [*recite the appointment of two surveyors; ante, No.* 31]; and whereas the above-mentioned C. D. and E. F. cannot agree as to the amount of the purchase-money or compensation to be paid for the said pieces or parcels of land, whereupon application was made to us by the said —— Railway Company [*or* "by the said A. B."] to make such nomination of a surveyor as is hereinafter expressed, which we have consented to do: Now, therefore, be it known, that, in pursuance of and obedience to the provisions contained in the Lands Clauses Consolidation Act, 1845, in this behalf, and we the said justices, having received proof satisfactory to us that the said C. D. and E. F. cannot agree in the valuation of the said pieces or parcels of land in the said hereinbefore-recited appointment, bearing date the —— day of —— mentioned, and that due notice in writing of the making of this application has been given by the said company to the said A. B. [*or* "by the said A. B. to the said com-

pany," *or as the case may be*], do, by this writing under our respective hands, nominate, ——, of &c., an able practical surveyor, to determine by his valuation the amount of [*here proceed from * in the precedent, No. 31, to the end*]. In witness whereof we the said [*justices*] have respectively set our hands and seals to these presents, this —— day of ——, 18—.

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### No. 34.

*Valuation made by two surveyors of lands taken or purchased from parties under any disability* (*c*).

Be it remembered, that we, C. D. and E. F., of &c., the two surveyors who, by a nomination in writing, bearing date the —— day of —— last, were nominated, I, the said C. D., by and on behalf of the —— Railway Company, incorporated by the —— Railway Act, 18—, and I, the said E. F., by and on behalf of A. B., of ——, &c., the tenant for life of the lands hereinafter described [*as the case may be*], to determine by our valuation the purchase-money or compensation to be paid by the said company for and in respect of the pieces or parcels of land hereinafter described, do declare that we, the said C. D. and E. F., having valued the same pieces or parcels of land [*or* "and having ascertained the permanent damage which hath been and will be occasioned to such lands and to adjacent lands and property belonging to the said A. B. by the said railway"], are of opinion, and accordingly by this our valuation in writing determine, that the sum of £—— sterling is the value and shall be paid by the said company for the purchase by them in fee simple in possession, free from all incumbrances, except the land tax and tithe commutation rent-charge, of the pieces or parcels of land described or referred to in the schedule hereunder written, and the appurtenances to the same premises belonging or in anywise appertaining [*or* "and that the sum of £—— sterling is the compensation money, and shall be paid by the said company for or in respect of permanent damage and injury which hath been and will be occasioned to the said lands and property adjacent thereto, and belonging to the said A. B., by the said railway and the works thereof"]: And we do declare that this our valuation is correct. In witness, &c.

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### No. 35.

*Bond by company to enable company to enter on lands before purchase-money agreed.*

Know all men by these presents, that we, the —— Railway Company, incorporated by an act of Parliament, intituled "The —— Railway Act, 18—," and A. B., of &c., and C. D., of &c. (the said A. B. and C. D. being sureties approved of by E. F. and G. H., Esquires, two of her Majesty's justices of the peace acting in and for the county of —— by writing under their hands bearing date the —— day of ——, pursuant to the statute in that case made and provided), are held and firmly bound to E. F. [*the owner*], of &c., in the sum of £——, of lawful money of Great Britain and Ireland, to be paid to the said [*owner*] or his certain attorney, executors, administrators or assigns, for which payment well and truly to be made, we

(*c*) If the valuation be made by the surveyor appointed by two justices as in Form, No. 33, the above precedent may be easily adapted by inserting the necessary recitals.

FORMS.

the said company bind ourselves and our successors; and we the said A. B. and C. D. bind ourselves and each of us, and the heirs, executors, and administrators of ourselves, and each of us respectively, firmly by these presents, sealed with the common seal of us the said company, and with the respective seals of us the said A. B. and C. D. Dated this —— day of ——, in the year of our Lord 184—.

Whereas, by virtue of the above-mentioned act of Parliament, or of the act or acts of Parliament incorporated therewith, the above-bounden railway company are authorized to purchase and take for the purposes of the said railway the lands described or referred to in the schedule hereunder written, of which the above-named E. F. is the owner or reputed owner; And whereas notice in writing bearing date on or about the —— day of ——, was duly given to the said E. F. [*here shortly recite the notice*]; And whereas the said E. F., on or about the —— day of —— last, made his claim in writing, whereby he demanded the sum of £—— for the purchase by the company, in fee simple in possession, of the said lands, and as compensation to be made for the damage that would be sustained by him by reason of the making of the said railway; And whereas the said company disputed the said claim, and they have requested the said E. F. to abate the same, which he has declined to do, and has refused to treat further with the said company respecting the said premises; And whereas [*here recite any steps which may have been taken for the purpose of determining, by arbitration or otherwise, the amount of the compensation*]; And whereas the said company are desirous of entering upon and using the said lands before the purchase-money or compensation to be paid by them in respect of the same has been agreed upon or settled according to law: Wherefore, in compliance with and obedience to the act or acts of Parliament above mentioned, the said company, on the —— day of —— last, deposited by way of security the sum of £——, being the full amount claimed by the said E. F. as aforesaid, into the Bank of England, in the name and with the privity of the accountant-general of the Court of Chancery, to his account there, to the credit of the said E. F., and subject to the control and disposition of the said court, as appears by the receipt in writing of the cashier of the said bank: now, therefore, the condition of the above-written bond is such, that, if the above-bounden company shall hereafter well and truly pay unto the said E. F., or shall deposit in the Bank of England for the benefit of the parties interested in the said lands, as the case may require, under the provisions contained in the said act or acts of Parliament above mentioned, all such purchase-money or compensation as may, in manner in the same act or acts provided, be determined to be payable by the above-bounden company in respect of the said lands so to be entered upon as aforesaid, together with interest on such purchase-money or compensation, at the rate of £5 per centum per annum from the time of the entry of the above-bounden company upon the said lands until such purchase-money or compensation shall be paid to the said E. F., or be deposited in the bank for the benefit of the parties interested in the said lands, as the case may require as aforesaid, then the above-written bond or obligation shall be void and of no effect, otherwise the same shall be and remain in full force and virtue.

Sealed with the common seal of the said company, and sealed and delivered by the said A. B. and C. D. in the presence of ——.

[The schedule above referred to.]

[*Here describe the lands.*]

No. 36.

*Appointment of umpire by Board of Trade.*

Whereas differences have arisen between the —— company on the one part and —— of —— on the other part, with respect to the compensation claimed by the said —— to be paid to —— by the said company, for the purchase of certain lands in —— required to be taken by the said company for the purposes of the —— Act, 18—, and also for the damage to be sustained by the said —— by reason of the execution of the works authorized by the said act; and whereas in pursuance of the said act, and the Lands Clauses Consolidation Act, 1845, incorporated therewith, the matters so in dispute have been referred to two arbitrators; and whereas the said arbitrators have, for seven days after request made to them by the said —— neglected to appoint an umpire; and whereas the said —— applied to the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations to appoint an umpire in the matters of the said reference: Now, therefore, the Lords of the said Committee, in pursuance of the said hereinbefore-mentioned acts, do hereby nominate and appoint —— of —— to be the umpire to decide on any matter so referred to the said arbitrators on which they shall differ, or which shall be referred to him under the provisions of the said acts.

Signed by order of the Lords of the said Committee on the —— day of ——, 18—.

——, one of the Secretaries of the said Committee.

No. 37.

*Award under Lands Clauses Act, by umpire appointed by Board of Trade* (*d*).

To all to whom these presents shall come, I (A. B. of ——) send greeting: Whereas under and by virtue of a certain act of Parliament, intituled [*insert title of special act*], and of certain acts of Parliament incorporated therewith, a certain railway company was incorporated and authorized to make and maintain a railway from —— in the county of ——, to —— in the county of ——, and to purchase and take certain lands which were requisite for the purposes of the said undertaking; and whereas under the powers and provisions contained in the said acts, or some or one of them, the said company were authorized to purchase and take for the purposes of the said undertaking, the lands hereinafter particularly mentioned in the schedule hereunder written, and described on the plan hereto annexed, and coloured green on the said plan; and whereas the said C. D. and E. F. were entitled or claimed to be entitled to sell and convey and release the said lands to the said company under the powers and provisions contained in the said acts, some or one of them; and whereas on or about the —— day of ——, A.D. 18—, notice in writing was duly given to the said C. D. and E. F., as being the owners or reputed owners of the said lands, by the said company according to the provisions contained in the said acts, some

(*d*) This form may easily be adapted to an award made by a single arbitrator, or by two arbitrators appointed under sect. 25, or by an umpire appointed by the two arbitrators under sect. 27. It will be prudent in each case to state every fact which is necessary to show jurisdiction.

FORMS.

or one of them, that the above-mentioned lands were required to be taken and used for the purposes of the said railway, and that the said company were willing to treat for the purchase of the respective interests of them the said C. D. and E. F. therein, and as to the compensation to be made to them for the damage that might be sustained by them by reason of the execution of the said railway works; and in and by the said notice of the said company required the said C. D. and E. F. to deliver a statement in writing of the particulars of their respective estates and interests in the said lands, and of the claims made by them respectively in respect thereof; and whereas in pursuance of the said last-mentioned notice, the said C. D. and E. F., on or about the —— day of ——, 18—, by a statement in writing under their hands, informed the said company, that they the said C. D. and E. F. were seised and possessed to their own use and benefit of an estate in fee simple in the said lands, and that they claimed the sum of £—— as compensation for their estate and interest in such lands, and for the damage they might sustain by reason of the execution of the works authorized to be executed by the said railway acts; and they the said C. D. and E. F. (the said company not having then issued their warrant to the sheriff to summon a jury in respect of the said lands) also signified their desire to the said company to have the said question of compensation and damage settled by arbitration, conformably to the directions of the said hereinbefore-mentioned acts, some or one of them; and whereas they the said C. D. and E. F. and the said company did not agree and could not agree as to the amount of compensation and damage to be paid as aforesaid, neither did they the said company offer any sum of money to the said C. D. and E. F., as and for such compensation as aforesaid; and whereas they the said C. D. and E. F. and the said company did not concur in the appointment of a single arbitrator: whereupon the said railway company, in pursuance of the provisions contained in the said acts, some or one of them, duly nominated and appointed, in writing under the hands of two of the directors of the said company, H. J. of ——, land surveyor, to be an arbitrator to whom the question of such compensation as aforesaid should be referred, and requested the said C. D. and E. F. also to appoint an arbitrator; and whereas the said C. D. and E. F., in pursuance of the provisions contained in the said acts, some or one of them, and of the said request so made as aforesaid, duly nominated and appointed, by writing under their hands, K. L. of ——, land surveyor, as the other arbitrator to whom the question of such compensation as aforesaid should be referred; and whereas the said arbitrators, before they entered into the consideration of the matters so referred to them as aforesaid, duly made and subscribed, in the presence of a justice duly authorized in that behalf, the declaration required by the said acts, some or one of them; and whereas the said arbitrators entered upon the matters so referred to them as aforesaid, but did not, in pursuance of the said acts, some or one of them, nominate and appoint an umpire to decide on any matters in which they might differ, or which were referred to them as aforesaid, but on the contrary they the said arbitrators altogether refused to appoint an umpire within the time prescribed in the said acts, some or one of them: whereupon the said railway company, on or about the —— day of ——, duly made application in writing to the Lords of the Committee of her Majesty's Privy Council for Trade and Foreign Plantations, requesting them to appoint an umpire, in pursuance of the Lands Clauses Consolidation Act, 1845, being one of the said acts incorporated with the said act intituled [*here state the title of the special act*]; and the said lords thereupon, in pursuance of the said request, and of the provisions contained in the said Lands Clauses Consolidation Act, 1845, by writing signed by —— duly appointed me, the before-mentioned A. B., to be the umpire in

the matter of the said arbitration; and whereas the said arbitrators, by reason of a difference between them, failed to make their award within twenty-one days after the day on which the last of the said arbitrators was appointed, and no extended time was appointed by them for the purpose of making their award, whereby the matters referred to the said arbitrators as aforesaid, and on which they so differed, duly came before me, as umpire: Now know ye that I, the said A. B., having taken upon me the burthen of making the said award, and having, before taking into consideration any of the matters referred to me, duly made and subscribed, in the presence of a justice duly authorized in that behalf, the declaration required by the said acts, some or one of them, and which said declaration is hereunto annexed; and having been attended [by the said arbitrators, and] by the said parties and their witnesses, [and having also viewed the said lands,] and having also in making this my award regarded not only the value of the land to be purchased or taken, as aforesaid by the said company from the said C. D. and E. F., but also the damage to be sustained by them, by reason of the severing the said lands taken from the other lands of the said C. D. and E. F., or otherwise injuriously affecting such other lands by the exercise by the said company of the powers contained in the said acts, or either of them, do make this my award in writing concerning the premises, in manner and form following, that is to say, I do award, decide, order and determine that the said company shall pay the sum of £—— for the absolute purchase of the fee simple in possession free from incumbrances (save and except the land tax and tithe commutation rent-charge) of all those pieces or parcels of land particularly mentioned and described in the said schedule hereunder written, and also delineated in the said plan hereunto annexed, and numbered respectively 2, 3, 4, 6, &c. to 18, on the said plan, and coloured green; and that the further sum of £—— shall be paid by the said company as and for compensation for all damage which will be sustained by the owners of the said lands by reason of the execution of the said works, and by reason of the severing of the said lands from the other lands of such owners, or otherwise injuriously affecting such other lands by the exercise of the powers of the said acts.

And I the said A. B., in pursuance of the powers contained in the said acts, some or one of them, do hereby declare that I have settled the costs of the said C. D. and E. F. incident to this arbitration at the sum of £——, and the costs of and incident to my umpirage and award at the sum of £——, which said sums are to be paid by [*as the case may be*] (*e*). Witness my hand and seal this —— day of ——, in the year of our Lord 18—(*f*).

(*e*) The cost may be awarded by a separate document.

(*f*) Other useful forms may be found in "Precedents of Conveyance, &c., to Railway Companies," by Messrs. Frend and Ware.

# EXTRACTS FROM THE MODEL RAILWAY BILL,

## AS AMENDED 1888.

*A BILL for making a Railway from to*

WHEREAS, &c.

And whereas plans and sections showing the lines and levels of the railways authorised by this act, and also books of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this act, were duly deposited with the clerk of the peace [principal sheriff clerk] for the county of and are hereinafter respectively referred to as the deposited plans, sections, and books of reference:

And whereas the purposes of this act cannot be effected without the authority of Parliament:

Short title.

1. (A.) This act may be cited as the Railway Act, 188 .

[*This Bill is drawn for a railway, but the general arrangement of it, and the expressions used are (mutatis mutandis) applicable to almost all Bills, and to be observed accordingly.*]

Incorporation of acts.

2. The , &c., &c. are (except where expressly varied by this act) incorporated with and form part of this act.

Interpretation.

3. In this act the several words and expressions to which meanings are assigned by the acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the company" means the company incorporated by this act; the expressions "the railway" and "the undertaking" mean respectively the railway and the undertaking by this act authorised; and for the purposes of this act the expression "superior courts" or "courts of competent jurisdiction," or any other like expression in this act or any act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute.

[*All words in the Bill requiring interpretation should be dealt with in this clause. The interpretation of the expressions "superior courts" and "courts of competent jurisdiction" is not required in Scotch or Irish Bills.*]

Company incorporated.

4. A. B., C. D., &c. and all other persons and corporations who have already subscribed to, or shall hereafter become proprietors in the undertaking, and their executors, administrators, successors, and assigns respectively, shall be and are hereby united into a company, for the purpose of making and maintaining the railway, and for other the purposes of this act, and for those purposes shall be and are hereby incorporated by the name of The Railway Company, and by that name shall be a body corporate, with perpetual succession, and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this act.

Power to make railway.

5. Subject to the provisions of this act, the company may make and maintain in the line and according to the levels shown on the deposited plans and sections the railway hereinafter described, with all proper

stations, sidings, approaches, works, and conveniences connected therewith, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for that purpose. The railway hereinbefore referred to and authorised by this act is :

A railway in length, commencing at and terminating at .

[*The standing orders require that the length of each railway shall be set forth in miles, furlongs, chains, and links or yards or decimals of a chain.*]

[*Here insert, when applicable, the parish clerks clause or postmasters clause.* See *Special Clauses II. Nos.* 1, 2, *p.* 448.]

6. The capital of the company shall be pounds, in shares of pounds each. Capital.

[*No share to be under ten pounds.*]

7. The company shall not issue any share created under the authority of this act, nor shall any such share vest in the person or corporation accepting the same, unless and until a sum not being less than one-fifth of the amount of such share is paid in respect thereof. Shares not to be issued until one fifth paid.

8. One-fifth of the amount of a share shall be the greatest amount of a call, and months at least shall be the interval between successive calls, and of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share. Calls.

9. If any money is payable to a shareholder or debenture or debenture stock holder, being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate [of his tutor or curator or curator bonis] shall be a sufficient discharge to the company. Receipt in case of persons not sui juris.

[*Here insert every special or other provision affecting the share capital of the company; and if shares are to be taken by another company, the clause allowing this should be here inserted, but the provisions for enabling the other company to raise money for that purpose must appear in a subsequent part of the Bill.* See *Special Clauses, p.* 445.]

10. The company may from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole pounds, but no part thereof shall be borrowed until the whole capital of pounds is issued, and accepted, and one-half thereof is paid up, and the company have proved to the justice [sheriff] who is to certify under the fortieth section of the Companies Clauses Consolidation Act, 1845, [forty-second section of the Companies Clauses Consolidation (Scotland) Act, 1845,] before he so certifies, that the whole of such capital has been issued, and accepted, and that one-half thereof has been paid up, and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide, and is held by the persons or corporations to whom the same was issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, their executors, administrators, successors, or assigns are legally liable for the same; and upon production to such justice [sheriff] of the books of the company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof. Power to borrow.

11. The mortgagees of the undertaking may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages For appointment of a receiver.

by the appointment of a receiver [judicial factor]. In order to authorise the appointment of a receiver [judicial factor] in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver [judicial factor] is made shall not be less than pounds in the whole.

[*About one-tenth of the sum to be borrowed is the usual amount to be here inserted, but not exceeding £10,000.*]

[*When further borrowing powers are given to an existing company, all powers under previous Acts for the appointment of a receiver are to be repealed (without prejudice to any appointment theretofore made or proceedings then pending), and the above clause is to be substituted.*]

Debenture stock. 12. The company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863, but notwithstanding anything therein contained, the interest of all debenture stock and of all mortgages at any time [after the passing of this act] created and issued or granted by the company under [any previous act or] this [act] or any subsequent act shall subject to the provisions of any subsequent act rank pari passu (without respect to the dates of the securities or of the acts of Parliament or resolutions by which the stock and mortgages were authorised), and shall have priority over all principal moneys secured by such mortgages. Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

[*This clause is to be inserted in the case of all new companies, and of all existing companies, which have not issued debenture stock. In the latter case the words "after the passing of this Act" must be inserted if there is any mortgage debt.*]

[*Here insert all special provisions (if any) affecting the borrowing powers of the company.*]

Application of moneys. 13. All moneys raised under this act, whether by shares [debenture stock], or borrowing, shall be applied only to the purposes of this act to which capital is properly applicable.

First ordinary meeting. 14. The first ordinary meeting of the company shall be held within months after the passing of this act.

[*Here insert any clauses as to general meetings and scale of voting, if the provisions of the general act are departed from.*]

Number of directors. 15. The number of directors shall be ; but the company may from time to time reduce the number, provided that the number be not less than .

Qualification of directors. 16. The qualification of a director shall be the possession in his own right of not less than shares.

Quorum. 17. The quorum of a meeting of directors shall be .

First directors. 18. A. B., C. D., &c., [and persons to be nominated by them, or the majority of them, and consenting to such nomination,] shall be the first directors of the company, and shall continue in office until the first ordinary meeting held after the passing of this act.

Election of directors. At that meeting the shareholders present in person or by proxy may either continue in office, the directors appointed by this act, [or nominated as aforesaid], or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this act [or nominated as aforesaid] being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting, the shareholders present in person or by proxy shall (subject to the powers hereinbefore contained for

reducing the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions of the Companies Clauses Consolidation Act, 1845; and the several persons elected at any such meeting, being neither removed nor disqualified nor having died or resigned, shall continue to be directors until others are elected in their stead in manner provided by the same act.

19. The company may take by agreement for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act, 1845, any quantity of land not exceeding acres, but nothing in this act shall exempt the company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them upon any land taken under the powers of this section. Lands for extraordinary purposes.

20. The powers of the company for the compulsory purchase of lands for the purposes of this act shall cease after the expiration of years from the passing of this act. Period for compulsory purchase of lands.

[*Here insert all clauses relating to the mode of construction of the works.* See *Special Clauses II., Nos.* 3—7, *p.* 448.]

[21, 22. Deposit money not to be repaid except so far as railway is opened.—Application of deposit.]

23. If the railway is not completed within years from the passing of this act, then on the expiration of that period the powers by this act granted to the company for making and completing the railway, or otherwise in relation thereto, shall cease, except as to so much thereof as is then completed. Period for completion of works.

24. The company may demand and take, in respect of the use of the railway, any tolls not exceeding the following; (that is to say,) Tolls for passengers.

In respect of passengers and animals conveyed on the railway:

For any, &c.

In respect of goods conveyed on the railway:

For all coals, cinders, &c. per ton per mile, not exceeding ;
and if conveyed in carriages belonging to the company, an additional sum per ton per mile, not exceeding : Tolls for goods.

For all, &c.

25. The toll which the company may demand for the use of engines for propelling carriages on the railway shall not exceed per mile for each passenger or animal, or for each ton of goods, in addition to the several other tolls or sums by this act authorised to be taken. Tolls for propelling power.

26. The following provisions and regulations shall apply to the fixing of all tolls and charges payable under this act; (that is to say,) Regulations as to tolls.

For all passengers, animals, or goods conveyed on the railway for a less distance than miles, the company may demand tolls and charges as for miles: Short distances.

For a fraction of a mile beyond miles or beyond any greater number of miles, the company may demand tolls and charges on animals and goods for such fraction in proportion to the numbers of quarters of a mile contained therein, and if there be a fraction of a quarter of a mile such fraction shall be deemed a quarter of a mile; and in respect of passengers, every fraction of a mile beyond an integral number of miles shall be deemed a mile: Fractional parts of a mile.

For a fraction of a ton the company may demand tolls according to the number of quarters of a ton in such fraction; and if there be a fraction of a quarter of a ton, such fraction shall be deemed a quarter of a ton: Fractional parts of a ton.

With respect to all articles, except stone and timber, the weight shall be determined according to the imperial avoirdupois weight: General weight.

Weight of stone and timber.

With respect to stone and timber, fourteen cubic feet of stone, forty cubic feet of oak, mahogany, teak, beech, or ash, and fifty cubic feet of any other timber, shall be deemed one ton weight, and so in proportion for any smaller quantity.

Tolls for small parcels and articles of great weight.

27. With respect to small parcels not exceeding five hundred pounds in weight, and single articles of great weight, notwithstanding anything in this act, the company may demand and take any tolls not exceeding the following; (that is to say,)

For the carriage of small parcels on the railway:

For any parcel not exceeding pounds in weight pence;

For any parcel, &c.

Provided always, that articles sent in large aggregate quantities, although made up in separate parcels, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but that term shall apply only to single articles in separate packages.

For the carriage of single articles of great weight on the railway:

For the carriage, &c.

Maximum rates for passengers.

28. The maximum rate of charge to be made by the company for the conveyance of passengers upon the railway, including the tolls for the use of the railway and for carriages and locomotive power, and every other expense incidental to such conveyance, shall not exceed the following; (that is to say,)

For every passenger conveyed in a first-class carriage, the sum of pence per mile:

For every passenger conveyed in a second-class carriage, the sum of pence per mile:

For every passenger conveyed in a third-class carriage, the sum of per mile.

Maximum rates for animals and goods.

29. The maximum rate of charge to be made by the company for the conveyance of animals and goods (except such small parcels and single articles of great weight as aforesaid) on the railway, including the tolls for the use of the railway, and for waggons or trucks and locomotive power, and for every other expense incidental to the conveyance, (except a reasonable charge for loading and unloading goods at any terminal station in respect of such goods, and for delivery and collection, and any other service incidental to the business or duty of a carrier, where any such service is performed by the company,) shall not exceed the following sums; (that is to say,)

For every horse, &c.

Passengers' luggage.

30. Every passenger travelling upon the railway may take with him his ordinary luggage not exceeding one hundred and twenty pounds in weight for first-class passengers, one hundred pounds in weight for second-class passengers, and sixty pounds in weight for third-class passengers, without any charge being made for the carriage thereof.

Terminal station.

31. No station shall be considered a terminal station in regard to any goods conveyed on the railway unless such goods have been received thereat direct from the consignor, or are directed to be delivered thereat to the consignee.

Foregoing charges not to apply to special trains.

32. The restrictions as to the charges to be made for passengers shall not extend to any special train run upon the railway, in respect of which the company may make such charges as they think fit, but shall apply only to the ordinary and express trains appointed from time to time by the company for the conveyance of passengers and goods upon the railway.

Company may take increased charges by agreement.

33. Nothing in this act shall prevent the company from taking any increased charges, over and above the charges by this act limited, for the conveyance of animals or goods of any description, by agreement with the

owners or persons in charge thereof, either by reason of any special service performed by the company in relation thereto, or in respect to the conveyance of animals or goods (other than small parcels) by passenger trains.

[*Here insert clauses (if any) of agreement with local authorities and others and giving powers to other companies to raise money for subscription to the undertaking* (see *Special Clauses, p.* 444) ; *and saving clauses (if any).*]

34. The book tables or other document in use for the time being containing the general classification of goods carried by goods or merchandise train on the railway of the company shall during all reasonable hours be open to the inspection of any person without the payment of any fee at every station at which goods or merchandise are received for transmission, and such book tables or other document as annually revised shall be kept on sale at the principal office of the company at a price not exceeding one shilling. Classification Table to be open for inspection. Copies to be sold.

The company shall within one week after application in writing made to the secretary of the company by any person interested in the carriage of any goods which have been or are intended to be carried over the railway render an account to the person so applying in which the charge made or claimed by the company for the carriage of such goods shall be divided, and the charge for conveyance over the railway shall be distinguished from the terminal charges (if any), and if any terminal charge is included in such account the nature and detail of the terminal expenses in respect of which it is made shall be specified. Terminal charges (if any) to be specified on application.

If the company fail to comply with the provisions of this section they shall for each offence, and in the case of a continuing offence for every day during which the offence continues, be liable to a penalty not exceeding five pounds, which penalty shall be recovered and applied in the same manner as penalties imposed by the Regulation of Railways Act, 1873, section 14. Penalty.

35. No interest or dividend shall be paid out of any share or loan capital which the company are by this or any other act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him ; but nothing in this act shall prevent the company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act, 1845 [Companies Clauses Consolidation (Scotland) Act, 1845]. Interest not to be paid on calls paid up.

[*For clause payment of interest out of capital during construction*, see *S. O.* 128, *page* 480.]

36. The company shall not, out of any money by this act authorised to be raised, pay or deposit any sum which, by any standing order of either House of Parliament now or hereafter in force, may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an act authorising the company to construct any other railway or to execute any other work or undertaking. Deposits for future Bills not to be paid out of capital.

37. Nothing in this act contained shall exempt the company or the railway from the provisions of any general act relating to railways, or the better and more impartial audit of the accounts of railway companies, now in force or which may hereafter pass during this or any future session of Parliament, or from any future revision or alteration, under the authority of Parliament, of the maximum rates of fares and charges, or of the rates for small parcels, authorised by this act. Provision as to general railway Acts.

38. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this act, or otherwise in relation thereto shall be paid by . Costs of Act.

## I.—Clauses Relating to Capital and Borrowing Powers.

### 1. *Division of Shares into Preferred and Deferred Half Shares.*

Power to divide shares.

Subject to the provisions of this act, the company, with the authority of three fourths of the votes of the shareholders present in person or by proxy at a general meeting of the company specially convened for the purpose, may from time to time divide any share in their capital into half shares, of which one shall be called "preferred half share," and the other shall be called "deferred half share"; but the company shall not divide any share under the authority of this act unless and until not less than sixty per centum upon such share has been paid up; and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share, (being the whole amount payable thereon), and the residue to the credit of the preferred half share.

Dividends on half shares.

The dividend which would from time to time be payable on any divided share if the same had continued an entire share shall be applied in payment of dividends on the two half shares in manner following; (that is to say), first, in payment of dividend, after such rate not exceeding      per centum per annum as shall be determined once for all at a general meeting of the company specially convened for the purpose, on the amount for the time being paid up on the preferred half share, and the remainder, if any, in payment of dividend on the deferred half share, and the company shall not pay any greater amount of dividend on the two half shares than would have from time to time been payable on the entire share if the same had not been divided.

Dividend on preferred shares to be paid out of the profits of the year only.

Each preferred half share shall be entitled out of the profits of each year to the dividend which may have been attached to it by the company as aforesaid in priority to the deferred half share bearing the same number; but if in any year ending the thirty-first day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half share for that year, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the company.

Half shares to be registered, and certificates issued.

Forthwith after the creation of any half shares the same shall be registered by the directors, and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued, and the directors shall issue certificates of the half shares accordingly, and shall cause an entry to be made in the register of the entire shares of the conversion thereof; but the directors shall not be bound to issue a certificate of any half share until the certificate of the existing entire share be delivered to them to be cancelled, unless it be shown to their satisfaction that such certificate is destroyed or lost; and on any certificate being so delivered up the directors shall cancel it.

Terms of issue to be stated in certificates.

The terms and conditions on which any preferred half share or deferred half share created under this act is issued shall be stated on the certificate of each such half share.

Forfeiture of preferred shares.

The provisions of the Companies Clauses Consolidation Act, 1845 [Companies Clauses Consolidation (Scotland) Act, 1845,] with respect to the forfeiture of shares for non-payment of calls, shall apply to all preferred half shares created under the authority of this act, and every such preferred half share shall for that purpose be considered an entire share, distinct from the corresponding deferred half share; and until any forfeited preferred half share shall be sold by the directors, all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards

payment of any expenses attending the declaration of forfeiture thereof, and of the arrears of calls for the time being due thereon, with interest.

No preferred half share created under the authority of this act shall be cancelled or be surrendered to the company. Preferred shares not to be cancelled or surrendered.

The several half shares under this act shall be half shares in the capital of the company, and every two half shares (whether preferred or deferred, or one of each), held by the same person shall confer such right of voting at meetings of the company, and (subject to the provisions herein-before contained) shall confer and have all such other rights, qualifications, privileges, liabilities, and incidents, as attach and are incident to an entire share. Half shares to be half shares in capital.

## 2. *Power to another Company to Subscribe to the Undertaking, and to raise Money for that Purpose.*

The company may, with the authority of three fourths of the votes of their shareholders present in person or by proxy at a general meeting of the said company specially convened for the purpose, from time to time subscribe any sum which they think fit towards the undertaking, not exceeding in the whole pounds; and the said company may, with the like authority, contribute and apply in or towards payment of their said subscription any moneys which they are already authorised to raise, and which may not be required by them for the purposes of their undertaking, and also any moneys which they are by this act authorised to raise; and the said company shall, in respect of the sums to be subscribed, and the corresponding shares in the company to be held by them, have all the powers, rights, and privileges (except in regard to voting at general meetings, which shall be as hereinafter provided), and be subject to all the obligations and liabilities of proprietors of shares in the company: Provided always, that the company shall not sell, dispose of, or transfer any of the shares in the company for which they may subscribe. Power to company to subscribe; and to apply funds for that purpose.

[*The above clause should be inserted immediately before the borrowing powers. The following clauses should be inserted in the latter part of the Bill immediately before the saving clauses (if any) or standing order clauses.*]

[*Borrowing powers will not be allowed for the purposes of contribution.*]

The company may from time to time raise for the purposes of their subscription to the undertaking any capital, not exceeding in nominal amount pounds, by the issue at their option of new ordinary shares or stock, or new preference shares or stock, or, wholly or partially by any one or more of those modes respectively, and the clauses and provisions of the Companies Clauses Consolidation Act, 1845 [Companies Clauses Consolidation (Scotland) Act, 1845], with respect to the following matters: that is to say,— Power to to raise money by the creation of shares or stock.

The distribution of the capital of the company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;

The forfeiture of shares for non-payment of calls;

The remedies of creditors of the company against the shareholders;

The consolidation of the shares into stock;

The general meetings of the company, and the exercise of the right of voting by the shareholders;

The making of dividends;

The giving of notices; and

The provision to be made for affording access to the special act by all parties interested,

and Part I. (relating to cancellation and surrender of shares), and Part II. (relating to additional capital) of the Companies Clauses Act, 1863, shall extend and apply to the company, and to the additional capital which they are by this act authorised to raise.

[*This clause will require modification in all cases where the provisions of the special acts of the subscribing company differ from those of the general act.*]

Shares of company not to be issued until one-fifth part thereof shall have been paid up.

The company shall not issue any share under the authority of this act of less nominal value than ten pounds, nor shall any share vest in the person or corporation accepting the same, unless and until a sum, not being less than one fifth of the amount of such share, shall have been paid in respect thereof.

Application of moneys raised by the company

All moneys which the company may raise under the powers of this act shall be applied for the purposes of the before-mentioned subscription only.

Votes of company at general meetings.

The company, whilst shareholders of the company, may, by writing under their common seal, from time to time appoint some person to attend any meeting of the company; and such person shall have all the privileges and powers attaching to a shareholder of the company at such meetings, and may vote thereat in respect of the capital held by the company.

### 3. *Debenture Stock Clauses.*

Debenture stock.

(*a.*) The company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863, but notwithstanding anything therein contained, the interest of all debenture stock at any time [after the passing of this act], created and issued by the company shall rank pari passu with the interest of all mortgages at any time [after the passing of this act] granted by the company and shall have priority over all principal moneys secured by such mortgages.

Priority of principal moneys secured by existing mortgages.

(*b.*) The principal moneys secured by all mortgages granted by the company in pursuance of the powers of any act of Parliament before the passing of this act, and substituting at the passing hereof, shall, during the continuance of such mortgages, have priority over the principal moneys secured by any mortgages granted by virtue of this act.

[*When these clauses have been adopted by a company they should be continued. They will be found in the special acts of all companies incorporated between* 1872 *and* 1881. *In the case of companies incorporated before* 1872, *the following clause should be substituted for* (*b*).]

Existing mortgages to have priority.

All mortgages [and bonds] granted by the company in pursuance of the powers of any act of Parliament before the passing of this act, and subsisting at the passing hereof, shall, during the continuance of such mortgages [and bonds], and subject to the provisions of the acts under which such mortgages [and bonds] were respectively granted, have priority over any mortgages granted by virtue of this act; but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the company.

### 4. *Power to Raise Additional Capital.*

Power to raise additional capital.

The company may, subject to the provisions of Part II. of the Companies Clauses Act, 1863, raise any additional capital not exceeding in the whole pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by any one or more of those modes respectively, but the company shall not issue any share of less nominal value than ten pounds, nor shall any share vest in the person

or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Except as otherwise provided, new shares or stock to be subject to the same incidents as other shares or stock.

[Except as by this act otherwise provided,] the capital in new shares or stock created by the company under this act, and the new shares or stock therein and the holders thereof respectively shall be subject and entitled to the same powers, provisions, liabilities, rights, privileges, and incidents whatsoever in all respects, as if that capital were part of the now existing capital of the company of the same class of description, and the new shares or stock were shares or stock in that capital.

The capital in new shares or stock so created shall form part of the capital of the company.

Dividends on new shares or stock.

Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the company, and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares, or to the whole amount of such stock, as the case may be.

Restriction as to votes in respect of preferential shares or stock.

Except as otherwise expressly provided by the resolution creating the same, no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned.

New shares or stock raised under this Act and any other Act of past or present sessions may be of same class.

Subject to the provisions of any act already passed by which the company are authorised to raise capital by new shares or stock, and to the provisions of this act [and any other act passed in the present session of Parliament, whether before or after the passing of this act, by which the company may be authorised to raise capital by new shares or stock], the company may, if they think fit, raise by the creation and issue of new shares or stock of one and the same class, all or any part of the aggregate capital which they are by such other act and this act respectively authorised to raise by the creation and issue of new shares or stock.

Power to borrow.

The company may in respect of the additional capital of pounds which they are by this act authorised to raise, from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole pounds, but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted and one half of such capital is paid up, and the company have proved to the justice [sheriff] who is to certify under the fortieth section of the Companies Clauses Consolidation Act, 1845 [forty-second section of the Companies Clauses Consolidation (Scotland) Act, 1845], before he so certifies, that shares for the whole of such capital have been issued and accepted, and that one half of such capital has been paid up, and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and until stock for one half of so much of the said additional capital as is to be raised by means of stock is fully paid up, and the company have proved to such justice [sheriff] as aforesaid, before he so certifies, that such shares or stock, as the case may be, were issued and accepted [and to the extent aforesaid paid up] bonâ fide and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and also, so far as the said additional capital is raised by shares, that such persons or corporations, or their executors, administrators, successors, or assigns, are legally liable for the same, and upon production to such justice [sheriff] of the books of the company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

## II.—Clauses Relating to the Taking of Lands, to Plans, and the Construction of Works.

### 1. *Parish Clerks Clause.*

(*Applicable only within the Metropolis.*)

Interpretation of term "parish clerk."

The expression "parish clerk" and "clerks of the several parishes," in sections seven, eight, and nine of the Railways Clauses Consolidation Act, 1845, shall, with reference to the company, and as regards those parishes or extra-parochial places in which, by the standing orders of either House of Parliament, plans, sections, and other documents are required to be deposited with the clerk of the vestry of the parish or with the clerk of the district board for the district in which the parish or extra-parochial place is included, mean, in the first case, the vestry clerks of those parishes, and, in the second case, the clerks of those district boards, respectively.

### 2. *Postmasters Clause.*

(*Applicable in the case of Irish railways only.*)

As to deposit of plans with clerks of unions.

With reference to this act, all the provisions of sections seven, eight, and nine of the Railways Clauses Consolidation Act, 1845, shall be read and construed as if the expression "clerks of the unions within which such parishes are included in Ireland," or the words "clerks of the unions" (as the case may be) had been used and inserted in such sections in lieu of the expression "the postmasters of the post towns in or nearest such parishes in Ireland," or in lieu of the word "postmasters" (as the case may be).

### 3. *Crossing of Roads on the Level.*

### 4. *Inclination of Roads.*

### 5. *Height and Span of Bridges.*

### 6. *Width of Bridges.*

### 7. *Diversion of Roads.*

### 8. *Power to take Easements by Agreement.*

Power to take easements, &c. by agreement.

Persons empowered by the Lands Clauses Consolidation Act, 1845 [Lands Clauses Consolidation (Scotland) Act, 1845] to sell and convey or release lands may, if they think fit, subject to the provisions of that act, and of the Lands Clauses Consolidation Acts Amendment Act, 1860, and of this act, grant to the *company* any easement, right, or privilege, not being an easement of water, required for the purposes of this act in, over, or affecting any such lands, and the provisions of the said acts with respect to lands and rentcharges, so far as the same are applicable in this behalf, shall extend and apply to such grants, and to such easements, rights, and privileges as aforesaid respectively.

### 9. *Owners may be required to Sell Parts of Properties.*

Owners may be required to sell parts only of certain lands and buildings.

And whereas in the construction of the railways and works hereby authorised or otherwise in exercise of the powers of this act, it may happen that portions only of the houses or other buildings or manufactories shown

on the deposited plans may be sufficient for the purposes of the same, and that such portions may be severed from the remainder of the said properties without material detriment thereto; therefore, notwithstanding section ninety-two of the Lands Clauses Consolidation Act, 1845 [section ninety of the Lands Clauses Consolidation (Scotland) Act, 1845], the owners of and other persons interested in the houses or other buildings or manufactories described in the schedule to this act, and whereof parts only are required for the purposes of this act, may, if such portions can in the opinion of the jury, arbitrators [arbiter], or other authority to whom the question of disputed compensation shall be submitted, be severed from the remainder of such properties without material detriment thereto, be required to sell and convey to the company the portions only of the premises so required without the company being obliged or compellable to purchase the whole or any greater portion thereof, the company paying for the portions required by them and making compensation for any damage sustained by the owners thereof and other parties interested therein by severance or otherwise.

10. *Underpinning Clause.*

Company empowered or may be required to underpin or otherwise strengthen houses near railway.

And whereas in order to avoid in the execution and maintenance of any works authorised by this act injury to the houses and buildings within one hundred feet of the railway, it may be necessary to underpin or otherwise strengthen the same; therefore, the company at their own costs and charges may, and if required by the owners and lessees of any such house or building shall, subject as hereinafter provided, underpin or otherwise strengthen the same, and the following provisions shall have effect (that is to say):

(1.) At least ten days notice shall, unless in case of emergency, be given to the owners, lessees, and occupiers, or by the owners and lessees, of the house or building so intended or so required to be underpinned or otherwise strengthened:

(2.) Each such notice if given by the company shall be served in manner prescribed by section 19 of the Lands Clauses Consolidation Act, 1845, and if given by the owners and lessees of the premises to be underpinned or strengthened, shall be sent to the principal office of the company:

(3.) If any owner, lessee, or occupier of any such house or building, or the company, as the case may require, shall within seven days after the giving of such notice give a counter-notice in writing that he or they, as the case may be, disputes the necessity of such underpinning or strengthening, the question of the necessity shall be referred to an engineer to be agreed upon, or in case of difference to an engineer to be appointed at the instance of either party by the Board of Trade:

(4.) Such referee shall forthwith upon the application of either party proceed to inspect such house or building, and determine the matter referred to him, and in the event of his deciding that such underpinning or strengthening is necessary, he may, and if so required by such owner, lessee, or occupier shall, prescribe the mode in which the same shall be executed, and the company may and shall proceed forthwith so to underpin or strengthen the said house or building:

(5.) The cost of the reference shall be in the discretion of the referee:

(6.) The company shall be liable to compensate the owners, lessees, and occupiers of every such house or building for any inconvenience, loss, or damage which may result to them by reason of the exercise of the powers granted by this enactment;

(7.) If in any case in which any house or building shall have been underpinned or strengthened on the requisition of the company, such underpinning or strengthening shall prove inadequate for the support or protection of the house or building against further injury arising from the execution or use of the works of the company, then and in every such case, unless such underpinning or strengthening shall have been done in pursuance of and in the mode prescribed by the referee, the company shall make compensation to the owners, lessees, and occupiers of such house or building for such injury, provided the claim for compensation in respect thereof be made by such owners within 12 months, and by such lessees or occupiers within six months from the discovery thereof:

(8.) Nothing in this enactment contained, nor any dealing with any property in pursuance of this enactment, shall relieve the company from the liability to compensate under the sixty-eighth section of the Lands Clauses Consolidation Act, 1845, or under any other act:

(9.) Every case of compensation to be ascertained under this enactment shall be ascertained according to the provisions contained in the Lands Clauses Consolidation Act, 1845:

(10.) Nothing in this section shall repeal or affect the application of the ninety-second section of the Lands Clauses Consolidation Act, 1845.

## III.—Clauses as to Penalty if the Line is not Opened within the Time Fixed.

## IV.—Abandonment of Works.

Company may abandon portions of authorised lines.

The company shall abandon the construction of so much of the railway authorised by as lies between .

Compensation for damage to land, by entry, &c., for purposes of railways abandoned.

The abandonment by the company under the authority of this act of any portion of any railway or works shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the company on such land for the purpose of surveying and taking levels, or probing or boring to ascertain the nature of the soil, or setting out of the line of railway, and shall not prejudice or affect the right of the owner or occupier of any land which has been temporarily occupied by the company to receive compensation for such temporary occupation, or for any loss, damage, or injury which has been sustained by such owner or occupier by reason thereof, or of the exercise as regards such land of any of the powers contained in the Railways Clauses Consolidation Act, 1845, [Railways Clauses Consolidation (Scotland) Act, 1845,] or the act.

Compensation to be made in respect of portions of railways abandoned.

Where before the passing of this act any contract has been entered into or notice given by the company for the purchasing of any land for the purposes of or in relation to any portions of the railways or works authorised to be abandoned by this act, the company shall be released from all liability to purchase or to complete the purchase of any such lands, but, notwithstanding, full compensation shall be made by the company to the owners and occupiers or other persons interested in such lands for all injury or damage sustained by them respectively by reason of the purchase not being completed pursuant to the contract or notice, and the amount and application of the compensation shall be determined in manner provided

by the Lands Clauses Consolidation Act, 1845, [Lands Clauses Consolidation (Scotland) Act, 1845,] as amended by any subsequent act for determining the amount and application of compensation paid for lands taken under the provisions thereof.

## V.—Agreements with other Companies.

### 1. *Working Agreement Clause.*

[*This clause is in the terms of Part III. of the Railways Clauses Act,* 1863, *which should be followed as far as possible with such variations only as may be absolutely necessary in particular cases.*]

### 2. *Clause as to Traffic conveyed partly on the Railway of the Company and partly on another Railway.*

Tolls on traffic conveyed partly on railway of the company and partly on another railway

During the continuance of any agreement to be entered into under the provisions of this act for the working [use] of the railway by the company, the railways of the company and of the company shall, for the purposes of short distance tolls and charges, be considered as one railway, and in estimating the amount of tolls and charges in respect of traffic conveyed partly on the railway and partly on the railway of the company for a less distance than miles, tolls and charges may only be charged as for miles, and in respect of passengers for every mile or fraction of a mile beyond miles tolls and charges as for one mile only, and in respect of animals and goods for every quarter of a mile or fraction of a quarter of a mile beyond miles tolls and charges as for a quarter of a mile only, and no other short distance charge shall be made for the conveyance of passengers, animals, or goods partly on the railway and partly on the railway of the company.

[*In all cases where the several companies have different short distance allowances, that which is the shortest is to be adopted in this clause.*]

[*A similar provision is to be made where running powers are given.*]

# STANDING ORDERS OF THE HOUSE OF LORDS FOR THE SESSION OF 1889,

AND

# SCALE OF FEES.

CONTENTS.

PART I.



## STANDING ORDERS.

### PART I.

Private Bills distinguished as Local or Personal. Meaning of Provisional Order Confirmation Bill.

For the purposes of the Standing Orders of this House, Private Bills are distinguished as either Local Bills or Personal Bills, and Bills for confirming a Provisional Order or Provisional certificate are referred to as Provisional Order Confirmation Bills,

## THE TWO CLASSES OF LOCAL BILLS.

1. All Bills (not being Estate Bills) which seek powers with reference to any of the following subjects are in these Orders termed Local Bills, and are divided into two classes, according to the subjects to which they respectively relate : Local Bills divided into two classes.

1ST CLASS.—Arbitration in respect of the affairs of any company, corporation, or persons ; burial ground, making, maintaining, or altering ; charters and corporations, enlarging or altering powers of ; church or chapel, building, enlarging, repairing, or maintaining ; city, borough, town, or district, paving, lighting, watching, cleansing, improving, incorporating, extending, altering, or regulating ; company, incorporating, regulating, or giving powers to ; county rate ; county or shire hall, court house ; crown, church, or corporation property, or property held in trust for public or charitable purposes ; ferry, where no work is to be executed ; fishery, making, maintaining, or improving ; gaol or house of correction ; gaswork ; land, inclosing, draining, or improving ; letters patent, confirming, prolonging, or transferring ; local court, constituting ; market or market place, erecting, improving, repairing, maintaining, or regulating ; police ; poor, maintaining or employing ; poor rate ; powers to sue and be sued, conferring ; stipendiary magistrate, or any public officer, payment of ; and continuing or amending an act passed for any of the purposes included in this or the second class, where no further work than such as was authorised by a former act is proposed to be made.

2ND CLASS.—Making, maintaining, varying, extending, or enlarging any aqueduct; archway; bridge; canal; cut; dock; drainage—where it is not provided in the bill that the cut shall not be more than eleven feet wide at the bottom ; embankment for reclaiming land from the sea or any tidal river ; ferry, where any work is to be executed ; harbour ; navigation; pier; port; RAILWAY ; reservoir; sewer; street; subway to be used for the conveyance of passengers, animals, or goods in carriages ; or trucks drawn or propelled on rails ; tramway by which term as used in these orders is meant a tramway to be laid along a street or road ; tramroad by which term as used in these orders is meant any tramway other than a tramway to be laid along a street or road ; tunnel ; turnpike or other public carriage road ; waterwork. Railway, &c. class.

## APPOINTMENT OF EXAMINERS.

2. There shall be one or more officers of this House, to be called "The Examiners of Standing Orders for Private Bills," who shall be appointed by the House. Appointment of Examiners.

## PART II.

## STANDING ORDERS, COMPLIANCE WITH WHICH IS TO BE PROVED BEFORE THE EXAMINERS.

[See vol. I ch. 1.]

In these Orders (3 to 68 inclusive), unless the context otherwise requires, the term "railway" includes "tramroad," and the term "occupier" applies

only to ratepayers and to other persons not being ratepayers whose interes in the premises occupied is not less than that of a quarterly tenant.

Compliance with the following Standing Orders shall be proved before one of the Examiners; viz.

### 1. *Notices by Advertisement.*

Notices to state objects of application and intention to seek for powers to purchase lands, or to amalgamate, &c., or to dissolve company, or to levy or alter tolls

3. In all cases where application is intended to be made for leave to bring in a Local Bill, notice shall be given stating the objects of such intended application; and if it be intended to apply for powers for the compulsory purchase of lands or houses, or for extending the time granted by any former act for that purpose, or to amalgamate with any other company, or to sell or lease the undertaking, or to purchase or take on lease the undertaking of any other company, or to enter into working agreements or traffic arrangements, or to dissolve any company, or to amend or repeal any former act or acts, or to levy any tolls, rates, or duties, or to alter any existing tolls, rates, or duties, or to confer, vary, or extinguish any exemption from payment of tolls, rates, or duties, or to confer, vary, or extinguish any other rights or privileges, the notice shall specify such intention; and shall also specify the company, person or persons, with, to, from, or by whom it is intended to be proposed that such amalgamation, sale, purchase, lease, working agreements, or traffic arrangements shall be made; and the whole of the notice relating to the same bill shall, except as provided by Order 9, be included in the same advertisement, which shall be headed by a short title, descriptive of the undertaking or bill, and shall be subscribed with the name and address of the person, company, corporation, or firm responsible for the publication of the notice.

Notices to contain names of parishes, &c.

4. In cases of Local Bills of the second class, and of Local Bills of the first class in respect to which plans are required to be deposited, such notices shall also contain a description of all the termini, together with the names of the parishes, townships, townlands, and extra-parochial places from, in, through, or into which the work is intended to be made, maintained, varied, extended, or enlarged, or in which any land or houses intended to be taken are situate, and where any common or commonable land is intended to be taken, such notice shall contain the name of such common, or commonable land (if any), and the name of any parish or township in which such land is situate, together with an estimate of the quantity of such common or commonable land proposed to be taken, and shall state the time and place of deposit of the plans, sections, books of reference, and copies of the Gazette notice respectively, with the clerks of the peace, sheriff clerks, parish clerks, clerks of vestries or district boards, session clerks, town clerks, and clerks of unions, as the case may be.

[5—6*b*. *Burial Grounds. Tramways.*]

*Cuts, Canals, &c.*

Notices when it is intended to divert water from an existing cut, &c.

7. In all cases where it is proposed to divert into any existing or intended cut, canal, reservoir, aqueduct, or navigation, or into any intended variation, extension, or enlargement thereof respectively, any water from any existing cut, canal, reservoir, aqueduct, or navigation, whether the water is to be abstracted directly or indirectly from any such cut, canal, reservoir, aqueduct or navigation, or from any feeder thereof, and whether under any agreement with the proprietors thereof or otherwise, the notices shall contain the name of every such last-mentioned cut, canal, reservoir, aqueduct, or navigation.

[8. *Letters Patent.*]

Publication of notices in gazettes and newspapers.

9. In the months of October and November, or either of them, immediately preceding the application for a Bill, the notice shall be published

once in the London, Edinburgh, or Dublin Gazette, as the case may be, and in the following newspapers, namely—

(1.) In the case of a bill relating specially to any particular city, borough, town, or urban sanitary district, the notice shall be published once in each of two successive weeks, with an interval between such publications of not less than six clear days, in some one and the same newspaper published in such city, borough, town, or district, or if there be no newspaper published therein, then in some one and the same newspaper published in the county in which such city, borough, town, or district, or any part thereof is situate.

(2.) In the case of a bill authorising the construction of works or the taking of lands, or extending the time granted by a former act for the construction of works or taking of lands, situate in one county only, or relating to an undertaking situate in one county only, or promoted by a company or companies or other parties possessed of an undertaking situate in one county only, the notice shall be published once in each of two successive weeks, with an interval between such publications of not less than six clear days, in some one and the same newspaper published in that county, or if there be no newspaper published therein, then in some one and the same newspaper published in some county adjoining or near thereto.

(3.) In the case of a bill authorizing the construction of works or the taking of lands, or extending the time granted by a former act for the construction of works or the taking of lands, in more than one county, or relating to an undertaking situate in more than one county, or promoted by a company or companies or other parties possessed of an undertaking situate in more than one county, the notice shall be published once in each of two successive weeks, with an interval between such publications of not less than six clear days, in some one and the same newspaper of the county in which the principal office of the company or companies or other parties who are the promoters of the bill is situate, and in some one and the same newspaper published in each county in which any new works are proposed to be constructed, or in which any lands are intended to be taken, or in which any works or lands are situate, in respect of which any new or further powers for the completion or taking thereof are intended to be applied for, or if there be no newspaper published therein, then in some one and the same newspaper published in some county adjoining or near thereto: Provided always, that if the bill relates to lands or works situate in more than one county, it shall be sufficient (at the option of the promoters) to publish in each of such counties so much only of the notice as relates specifically to the lands or works situate in that county together with the short title of the notice, and an intimation that the notice has been published in full, or sent for publication in full, in the Gazette.

(4.) No publication under this order shall be made after the 27th day of November.

*Tramways, Underground Railways, and Subways.*

Notices to be posted in street or road

10. In the months of October and November, or one of them, immediately preceding the application for any bill for laying down a tramway or constructing an underground railway or subway, notice thereof shall be posted for fourteen consecutive days in every street or road along or under which it is proposed to lay the tramway or construct the railway or subway in such manner as the authority having the control of such street or road

shall direct; and if after application to such authority no such direction shall be given then in some conspicuous position in every such street or road, and such notice shall also state the place or places at which the plans of such tramway, railway, or subway, will be deposited.

### 2. *Notices and Applications to Owners, Lessees, and Occupiers of Lands and Houses.*

Application to owners, &c., on or before 15th December.

[See p. 483.]

11. On or before the fifteenth day of December immediately preceding the application for a bill by which any lands or houses are intended to be taken, or an extension of the time granted by any former act for that purpose is sought, application in writing shall be made to the owners or reputed owners, lessees or reputed lessees, and occupiers of all lands and houses so intended to be taken, or which may be taken as being within the limits of deviation defined upon the plan; and in cases of Local bills of the second class, such application shall be, as nearly as may be, in the form set forth in the Appendix marked (A).

Lists of owners, &c., assenting dissenting, and neuter.

12. Separate lists shall be made of the names of such owners, lessees, and occupiers, distinguishing those who have assented, dissented, or are neuter in respect to such application, or who have returned no answer thereto; and where no written acknowledgment has been returned to an application forwarded by post, or where such application has been returned as undelivered at any time before the making up of such lists, the direction of the letters in which the same was so forwarded shall be inserted therein.

Notice to frontagers in case of tramways.

13. On or before the fifteenth day of December immediately preceding the application for a bill for laying down a tramway, notice in writing shall be given to the owners or reputed owners, lessees or reputed lessees, and occupiers of all houses, shops, or warehouses abutting upon any part of any street or road where for a distance of thirty feet or upwards it is proposed that a less space than nine feet six inches shall intervene between the outside of the footpath on either side of the road and the nearest rail of the tramway, or a less space than ten feet six inches, if it is intended to run on the tramway carriages or trucks adapted for use upon railways.

Notice to owners and lessees of railways, tramways, or canals crossed, affected, or interfered with by proposed tramway.

13*a*. On or before the fifteenth day of December immediately preceding the application for any bill for laying down a tramway crossing any railway or tramway on the level, or crossing any railway, tramway, or canal by means of a bridge, or otherwise affecting or interfering with such railway, tramway, or canal, notice in writing of such application shall be served upon the owner or reputed owner, and upon the lessee or reputed lessee of such railway, tramway, or canal, and such notice shall state the place or places at which the plans of the tramway to be authorized by such bill have been or will be deposited.

Notices when it is proposed to abstract water from any stream.

14. On or before the fifteenth day of December immediately preceding the application for a bill whereby it is proposed to abstract water from any stream for the purpose of supplying any cut, canal, reservoir, aqueduct, navigation, or waterwork, notice in writing of such bill shall be given to the owners or reputed owners, lessees or reputed lessees, and occupiers of all mills and manufactories or other works using the waters of such stream for a distance of twenty miles below the point at which such water is intended to be abstracted, such distance to be measured along the course of such stream, unless such waters shall within a less distance than twenty miles fall into or unite with any navigable stream, and then only to the owners or reputed owners, lessees or reputed lessees, and occupiers of such mills and manufactories or other works as aforesaid which shall be situate between the point at which such water is proposed to be abstracted and the

point at which such water shall fall into or unite with such navigable stream; and such notice shall state the name (if any) by which the stream is known at the point at which such water shall be immediately abstracted, and also the parish in which such point is situate, and the time and place of deposit of plans, sections, and books of reference, and copies of the Gazette notice respectively with the clerks of the peace and sheriff clerks, as the case may be.

[15. *Burial grounds, gas and sewage works, &c.*]

16. On or before the fifteenth day of December immediately preceding the application for a bill whereby the whole or any part of a work authorized by any former act is intended to be relinquished, notice in writing of such bill shall be served upon the owners or reputed owners, lessees or reputed lessees, and occupiers of the lands in which any part of the said work intended to be thereby relinquished is situate. Application to be made to owners, &c., when the Bill is to abridge or relinquish any work.

17. On or before the twenty-first day of December immediately preceding the application for a bill, whereby any express statutory provision then in force for the protection of the owner, lessee, or occupier of any property, or for the protection or benefit of any public trustees or commissioners, corporation or person, specifically named in such provision, is sought to be altered or repealed, notice in writing of such bill and of the intention to alter or repeal such provision shall be served upon every such owner, lessee, or occupier, public trustees or commissioners, corporation or person. Notice to owners, &c., in case of alteration or repeal of provisions for their protection.

18. On or before the twenty-first day of December immediately preceding the application for a local bill whereby any compulsory running powers are proposed to be taken over any railway, notice in writing of such bill, and of the intention to apply for such running powers, shall be served upon every company owning or working such railway. Notice in case of application for compulsory running powers.

19. All applications shall be made and notices served either by delivering the same personally to the party entitled to such application or notice, or by leaving the same at his usual place of abode, or, in his absence from the United Kingdom, with his agent, or by forwarding the same by post in a registered letter, addressed with a sufficient direction to his usual place of abode, and posted on or before the third day previously to the day required for the delivery of the same personally, at such places, at such hours and according to such regulations as the Postmaster General shall from time to time appoint for the posting and registration of such letters, and shall be accompanied by a copy of the Standing Orders which regulate the time and mode of presenting petitions in opposition to bills. How applications to be made and notices served.

20. In all cases the written acknowledgment of the party applied to shall, in the absence of other proof, be sufficient evidence of such application having been made or notice given; and in case of an application or notice having been forwarded by post, in a registered letter, the production of the Post Office receipt for such letter, duly stamped, in such form as the Postmaster General shall have appointed, shall be sufficient evidence of the due delivery of such letter; provided it shall appear that the same was properly and sufficiently directed, and that the same was not returned by the Post Office as undelivered. Written acknowledgment of party applied to, and in case of application by post, Post Office receipt sufficient evidence of application.

21. No notice served or application made on a Sunday or Christmas Day, or before eight o'clock in the forenoon or after eight o'clock in the afternoon of any day, shall be deemed valid, except in the case of delivery of letters by post. Notices, &c., not to be given on Sundays, &c.

[22. *Consents in case of Tramway Bills.*]

### 3. *Documents required to be deposited, and the Times and Places of Deposit.*

Deposits not to be made on Sundays, &c.

23. No deposit required by the following orders shall be deemed valid if made on a Sunday or Christmas Day, or before eight o'clock in the forenoon or after eight o'clock in the afternoon of any day.

*Deposits on or before the 30th November.*

Plan, book of reference, and section to be deposited with clerk of the peace, &c.

24. In cases of bills of the second class, a plan and also a duplicate thereof, together with a book of reference thereto, and a section and also a duplicate thereof, as herein-after described, and in cases of bills of the first class, by which any lands or houses are intended to be taken, a plan and duplicate thereof, together with a book of reference thereto, shall be deposited for public inspection at the office of the clerk of the peace for every county, riding or division in England or Ireland, or in the office of the principal sheriff clerk of every county in Scotland, and where any county in Scotland is divided into districts or divisions, then also in the office of the principal sheriff clerk in or for each district or division in or through which the work is proposed to be made, maintained, varied, extended or enlarged, or in which such lands or houses are situate, on or before the thirtieth day of November immediately preceding the application for the bill; and in the case of railway bills, the ordnance map on the scale of one inch to a mile, or where there is no ordnance map a published map, to a scale of not less than half an inch to a mile (or in Ireland to a scale of not less than a quarter of an inch to a mile), with the line of railway delineated thereon, so as to show its general course and direction, shall be deposited with such plans, sections, and books of reference.

In case of railways, Ordnance or published map to be deposited with clerk of peace, &c.

Deposit of plans, &c., in Parliament office.

25. On or before the thirtieth day of November a copy of the said plans, sections, and books of reference, and in the case of Railway Bills also a copy of the said Ordnance or published map, with the line of railway delineated thereon, shall be deposited in the Office of the Clerk of the Parliaments.

[25*a*. *Deposit of map and diagram in case of Tramway Bill.*]

Deposit of plans, sections, and map at Harbour Department, Board of Trade, in case of works on tidal lands.

26. In cases where the work is to be situate on tidal lands within the ordinary spring tides, a copy of the plans and sections shall on or before the thirtieth day of November, immediately preceding the application for the Bill, be deposited at the Office of the Harbour Department, Board of Trade, marked "Tidal Waters;" and on such copy all tidal waters shall be coloured blue; and, if the plans include any bridge across tidal waters, the dimensions as regards span and headway of the nearest bridges, if any, across the same tidal waters, above and below the proposed new bridge, shall be marked thereon; and in all such cases, such plans and sections shall be accompanied by an Ordnance or published map of the country over which the works are proposed to extend, or are to be carried, with their position and extent, or route accurately laid down thereon:

Deposit of plans, sections, and map with Board of Conservators (if any) in case of works affecting river.

And, in cases where the work is to be situate on the banks, foreshore, or bed of any river having a Board of Conservators consitituted by Act of Parliament, a copy of the plans and sections shall, on or before the thirtieth day of November immediately preceding the application for the Bill, be deposited at the Office of the Conservators of the River, and, if the plans include any tunnel under or bridge over the river, the depth of such tunnel below the bed of the river, or the span and headway of such bridge shall be marked thereon; and such plans shall be accompanied by an Ordnance or published map of the country over which the works are proposed to extend

or are to be carried, with their position and extent or route accurately laid down thereon.

27. In the case of Railway, Tramway, Subway, and Canal Bills, a copy of all plans, sections, and books of reference required by Order 24 to be deposited in the office of any clerk of the peace or sheriff clerk on or before the thirtieth day of November immediately preceding the application for the Bill, and in the case of Railway Bills also a copy of the said Ordnance or published map, with the line of railway delineated thereon, shall on or before the same day be deposited in the office of the Board of Trade. Deposit of plans, &c., with the Board of Trade.

28. In cases where any portion of the work shall be situate within the limits of the Metropolis, as defined by the "Metropolis Management Act, 1855," a copy of so much of the plans and sections as relates to such portion of the work shall, on or before the thirtieth day of November, be deposited at the Office of the Metropolitan Board of Works. Deposit of plans and sections with Metropolitan Board of Works.

29. On or before the thirtieth day of November a copy of so much of the said plans and sections as relates to each parish in or through which the work is intended to be made, maintained, varied, extended, or enlarged, or in which any lands or houses intended to be taken are situate, together with a copy of so much of the book of reference as relates to such parish, shall be deposited with the parish clerk of each such parish in England, or, in the case of any extra-parochial place, with the parish clerk of some parish immediately adjoining thereto, or in case of any place within the limits of the Metropolis, as defined by the "Metropolis Management Act, 1855," with the clerk of the vestry of each parish in Schedule A., and with the clerk of the district board of parishes in Schedule B. of the said Act, with the session clerk of each such parish in Scotland, and in Royal burghs with the town clerk, and with the clerk of the union within which such parish is included in Ireland. Deposit of parish plan, section, and book of reference with parish clerk, &c.

29a. On or before the thirtieth day of November a copy of so much of the said plans and sections as relates to the district of any urban sanitary authority in England or Ireland, in or through which the work is intended to be made, maintained, varied, extended, or enlarged, or in which any lands of houses intended to be taken are situate, together with a copy of so much or the book of reference as relates to that district, shall be deposited with the clerk of that sanitary authority. Deposit of plans, &c., with clerk to urban sanitary authority.

[30. *Burial ground.*]

31. Wherever any plans, sections, and books of reference, or parts thereof are required to be deposited, a copy of the notice published in the Gazette of the intended application to Parliament shall be deposited therewith. *Gazette* notice to be deposited with plans, &c.

*Deposits on or before the* 17*th of December.*

32. A printed copy of every Local Bill proposed to be introduced into either House of Parliament, shall be deposited in the Office of the Clerk of the Parliaments on or before the seventeenth day of December. Printed copies of Bills to be deposited in the Parliament Office.

*Deposits on or before the* 21*st of December.*

33. On or before the twenty-first day of December a printed copy of every Local Bill shall be deposited at the Office of Her Majesty's Treasury and at the General Post Office; a printed copy of every Local Bill relating to railways, tramways, subways, canals, gas, water, patents, or electric lighting, or for incorporating or giving powers to any company, shall be deposited at the Office of the Board of Trade; a printed copy of every local bill relating to any dock, harbour, navigation, pier or port, shall be Deposit of Bills at Treasury and other public departments.

deposited at the Office of the Harbour Department of the Board of Trade, marked "Tidal Waters"; a printed copy of every local bill containing provisions with respect to the use of weights and measures, or the inspection or verification of the same as the Standard Department of the Board of Trade; a printed copy of every local bill relating to a local court or stipendiary magistrate, and of every Bill whereby power is sought to take any churchyard, burial ground, or cemetery, or any part thereof, or to disturb the bodies interred therein, at the Office of the Secretary of State for the Home Department; a printed copy of every local bill relating to Scotland, at the Office of the Secretary for Scotland; a printed copy of every local bill relating to any matter in England or Wales, within the jurisdiction of the Local Government Board, at the office of that Board; and a printed copy of every local bill whereby the boundaries of any school district or the jurisdiction of any school board are affected, at the office of the Education Department.

Deposit of Bills with the Metropolitan Board of Works.

34. On or before the twenty-first day of December a printed copy of every local bill of the second class whereby any work shall be authorized within the limits of the Metropolis, as defined by "The Metropolis Management Act, 1855," shall be deposited at the office of the Metropolitan Board of Works.

Deposit of Bills with River Conservators.

34a. On or before the twenty-first day of December a printed copy of every bill of the second class whereby it is intended to authorize the construction of any work on the banks, foreshore, or bed of any river having a board of conservators constituted by Act of Parliament, shall be deposited at the office of the conservators of the river.

*Deposits on or before the 31st of December.*

Deposit of estimates, &c., in the Parliament Office.

35. All estimates and declarations, and lists of owners, lessees, and occupiers, which are required by the standing orders of the House, shall be deposited in the office of the Clerk of the Parliaments on or before the thirty-first day of December.

Copies of estimate and declaration to be printed, and delivered at Parliament Office.

36. On or before the thirty-first day of December copies of the estimate of expense of the undertaking, and where a declaration alone, or declaration and estimate of the probable amount of rates and duties are required, copies of such declaration, or of such declaration and estimate, shall be printed at the expense of the promoters of the bill, and delivered at the office of the Clerk of the Parliaments for the use of this House

Form of estimate.

37. The estimate for any works proposed to be authorized by any railway, tramway, subway, canal, dock, or harbour bill, shall be in the following form, or as near thereto as circumstances may permit:—

ESTIMATE OF THE PROPOSED ——— (RAILWAY).

| | | Whether Single or Double. |
|---|---|---|
| Line, No. | *Miles. fgs. chs.* | |
| Length of line . . . . . . | | — |

| | *Cubic Yds.* | *Price per Yd.* | £ *s.* *d.* | £ *s.* *d.* |
|---|---|---|---|---|
| Earthworks: | — | — | | |
| Cuttings—Rock . . | | | | |
| Soft Soil . . | | | | |
| Roads . . | | | | |
| TOTAL . . | | | | |

| | | £ s. d. |
|---|---|---|
| Embankments, including roads . . . | *Cubic Yds.* . . . | |
| Bridges—Public Roads . . . . . . | *Number* . . . | |
| Accommodation bridges and works . . . . . . . . . | | |
| Viaducts . . . . . . . . . . . . . . | | |
| Culverts and drains . . . . . . . . . . . | | |
| Metallings of roads and level crossings . . . . . . . . . | | |
| Gatekeepers' houses at level crossings . . . . . . . . | | |
| Permanent way, including fencing : | | |
| *Miles. fgs. chs.* at | *Cost per Mile.* £ s. d. | |
| Permanent way for sidings, and cost of junctions . . . . . . | | |
| Stations . . . . . . . . . . . . . | | |
| Contingencies . . . . . . . . . . | per cent. | |
| Land and buildings : A. R. P. | | |
| TOTAL . . . | £ | |

The same details for each branch, and general summary of total cost.

38. In the case of any bill which contains power to take compulsorily or by agreement in any parish in the Metropolis twenty or more houses, or as regards England and Wales exclusive of the Metropolis, in any city, borough, or other urban sanitary district, or in any parish or part of a parish not being within an urban sanitary district, or in Scotland in any district within the meaning of the Public Health (Scotland) Act, 1867, or in Ireland in any urban sanitary district as defined by the Public Health (Ireland) Act, 1878, ten or more houses, occupied either wholly or partially by persons belonging to the labouring class as defined in Order 111, as tenants or lodgers, or which revives or extends any such power, the promoters shall deposit in the office of the Clerk of the Parliaments and at the office of the Central Authority, as defined in Order 111, on or before the thirty-first day of December, a statement of the number, description, and situation of such houses, the number (so far as can be ascertained) of persons residing therein, and a copy of so much of the plan (if any) as relates thereto. This order shall not apply where a statement in pursuance of this order was deposited in respect of the act, the powers of which are proposed to be revived or extended.

Statement relating to houses inhabited by the labouring class to be deposited in Parliament Office and at office of central authority.

39. Whenever plans, sections, or books of reference are deposited in the case of an application to any public department for a provisional order or certificate, duplicates of the said documents shall at the same time be deposited in the office of the Clerk of the Parliaments; provided that with regard to such deposits as are so made at any public department after the prorogation of Parliament and before the thirtieth day of November in any year such duplicates shall be so deposited on or before the thirtieth day of November.

Deposit of plans, &c., in case of provisional orders in Parliament Office.

This order shall also apply to maps deposited in the case of electric lighting provisional orders.

### 4. *Form in which Plans, Books of Reference, Sections and Cross Sections are to be prepared.*

*Plans.*

Description of plans.

40. Every plan required to be deposited shall be drawn to a scale of not less than four inches to a mile, and in the case of bills of the first class, shall describe the lands intended to be taken, and in case of bills of the second class, shall describe the line or situation of the whole of the work (no alternative line or work being in any case permitted), and the lands in or through which it is to be made, maintained, varied, extended, or enlarged, or through which any communication to or from the work shall be made; and where it is the intention of the promoters to apply for powers to make any lateral deviation from the line of the proposed work, the limits of such deviation shall be defined upon the plan, and all lands included within such limits shall be marked thereon; and unless the whole of such plan shall be upon a scale of not less than a quarter of an inch to every one hundred feet, an enlarged plan shall be added of any building, yard, court-yard, or land within the curtilage of any building, or of any ground cultivated as a garden, either in the line of the proposed work or included within the limits of the said deviation, upon a scale of not less than a quarter of an inch to every one hundred feet.

Lands within lateral deviation to be marked on plan.

Buildings, &c., on enlarged scale.

In case of cuts, canals, &c., plan to describe brooks, &c., to be diverted.

41. In all cases where it is proposed to make, vary, extend, or enlarge any cut, canal, reservoir, aqueduct, or navigation, the plan shall describe the brooks and streams to be directly diverted into such intended cut, canal, reservoir, aqueduct, or navigation, or into any variation, extension, or enlargement thereof respectively for supplying the same with water.

In case of railway distances to be marked in miles and furlongs, and memorandum of curves and tunnelling.

42. In all cases where it is proposed to make, vary, extend, or enlarge, any railway, the plan shall exhibit thereon the distances in miles and furlongs from one of the termini, and a memorandum of the radius of every curve not exceeding one mile in length shall be noted on the plan in furlongs and chains; and where tunnelling as a substitute for open cutting is intended, the same shall be marked by a dotted line on the plan; and no work shall be shown as tunnelling in the making of which it will be necessary to cut through or remove the surface soil.

Diversion of roads, &c., to be shown.

43. If it be intended to divert, widen, or narrow any turnpike road, public carriage road, navigable river, canal, or railway, the course of such diversion, and the extent of such widening or narrowing, shall be marked upon the plan.

In case of junctions, course of existing line to be shown on deposited plan.

44. When a railway is intended to form a junction with an existing or authorized line of railway, the course of such existing or authorized line of railway shall be shown on the deposited plan for a distance of eight hundred yards on either side of the proposed junction, on the same scale as the scale of the general plan.

[45 and 45*a*. *Plans in the Tramways and Subways.*]

*Book of Reference.*

Contents of book of reference.

46. The book of reference shall contain the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of all lands and houses in the line of the proposed work, or within the limits of deviation as defined upon the plan, and shall describe such lands and houses respectively.

*Sections.*

Sections.

47. The section shall be drawn to the same horizontal scale as the plan, and to a vertical scale of not less than one inch to every one hundred feet, and shall show the surface of the ground marked on the plan, the intended

level of the proposed work, the height of every embankment, and the depth of every cutting, and a datum horizontal line, which shall be the same throughout the whole length of the work, or any branch thereof respectively, and shall be referred to some fixed point stated in writing on the section, near some portion of such work, and, in the case of a canal, cut, navigation, turnpike, or other carriage road or railway, near either of the termini.

Improvement, &c., of navigation.

48. In cases of bills for improving the navigation of any river, there shall be a section which shall specify the levels of both banks of such river; and where any alteration is intended to be made therein, it shall describe the same by feet and inches, or decimal parts of a foot.

Line of railway on section to correspond with upper surface of rails

49. In every section of a railway the line of the railway marked thereon shall correspond with the upper surface of the rails.

Distances on datum line and vertical measures at change of gradient to be marked.

50. Distances on the datum line shall be marked in miles and furlongs, to correspond with those on the plan; a vertical measure from the datum line to the line of the railway shall be marked in feet and inches, or decimal parts of a foot at the commencement and termination of the railway, and at each change of the gradient or inclination thereof; and the proportion or rate of inclination between every two consecutive vertical measures shall also be marked.

Height of railway over or depth under surface of roads, &c., to be marked, and bridges and level crossings.

51. Wherever the line of the railway is intended to cross any turnpike road, public carriage road, navigable river, canal, or railway, the height of the railway over or depth under the surface thereof, and the height and span of every arch of all bridges and viaducts by which the railway will be carried over the same, shall be marked in figures at every crossing thereof; and where the railway will be carried across any such turnpike road, public carriage road, or railway on the level thereof, such crossing shall be so described on the section; and it shall also be stated if such level will be unaltered.

Cross sections of roads, &c., crossed by railway when rates of inclination altered.

52. If any alteration be intended in the water level of any canal or in the level or rate of inclination of any turnpike road, public carriage road, or railway, which will be crossed by the line of railway, then the same shall be stated on the section, and each alteration shall be numbered; and cross sections in reference to the numbers, on a horizontal scale of not less than one inch to every three hundred and thirty feet, and on a vertical scale of not less than one inch to every forty feet, shall be added, which shall show the present surface of such road, canal, or railway, and the intended surface thereof when altered, and the greatest of the present and intended rates of inclination of the portion of such road or railway intended to be altered shall also be marked in figures thereon; and where any turnpike road or public carriage road is crossed on the level, a cross section of such road shall also be added; and all such cross sections shall extend for two hundred yards on each side of the centre line of the railway.

Embankments and cuttings.

53. Wherever the extreme height of any embankment or the extreme depth of any cutting shall exceed five feet, the extreme height over or depth under the surface of the ground shall be marked in figures upon the section; and if any bridge or viaduct of more than three arches shall intervene in any embankment, or if any tunnel shall intervene in any cutting, the extreme height or depth shall be marked in figures on each of the parts into which such embankment or cutting shall be divided by such bridge, viaduct, or tunnel.

Tunnelling and viaducts to be marked.

54. Where tunnelling as a substitute for open cutting, or a viaduct as a substitute for solid embankment, is intended, the same shall be marked on the section, and no work shall be shown as tunnelling in the making of which it will be necessary to cut through or remove the surface soil.

In case of junctions, gradient of existing line to be shown on deposited section.

55. When a railway is intended to form a junction with an existing or authorised line of railway, the gradient of such existing or authorized line of railway shall be shown on the deposited section, and in connection there-

with, and on the same scale as the general section, for a distance of eight hundred yards on either side of the point of junction.

5. *Estimates and Deposits of Money, and Declarations in certain Cases.*

Estimate in Bills of the second class.

56. An estimate of the expense of the undertaking under each local bill of the second class shall be made and signed by the person making the same.

Five per cent. or four per cent. of estimate to be deposited.

57. In the case of a railway bill, tramway bill, or subway bill authorising the construction of works by other than an existing railway company, tramway company, or subway company incorporated by Act of Parliament, possessed of a railway, tramway, or subway already opened for public traffic, which has during the year last past paid dividends on its ordinary share capital, and which does not propose to raise under the bill a capital greater than its existing authorised capital, a sum not less than five per cent. on the amount of the estimate of expense (or in the case of substituted works, on the amount by which the expense thereof will exceed the expense of the works to be abandoned), and in case of all bills other than railway bills, tramway bills, and subway bills, a sum not less than four per cent. on the amount of such estimate or of such excess as aforesaid, shall, previously to the fifteenth day of January, be deposited with the Paymaster-General for and on behalf of the Supreme Court of Judicature in England, if the work is intended to be done in England, or with the Paymaster-General for and on behalf of the Supreme Court of Judicature in England or the Court of Exchequer in Scotland if the work is intended to be done in Scotland, or with the Accountant-General of the Supreme Court of Judicature in Ireland if the work is intended to be done in Ireland.

Cases in which declaration may be deposited in lieu of money.

58. Where the work is to be made wholly or in part by means of funds, or out of money to be raised upon the credit of present surplus revenue belonging to any society or company or under the control of directors, trustees, or commissioners, as the case may be, of any existing public work, such parties being the promoters of the bill, a declaration stating those facts and setting forth the nature of such control, and the nature and amount of such funds or surplus revenue, and showing the actual surplus of such funds or revenue, after deducting the funds required for purposes authorised by any act or acts of Parliament, and also the funds which may be required for any other work to be executed under any bill in the same session, and given under the common seal of the society or company, or under the hand of some authorised officer of such directors, trustees, or commissioners, may be deposited, and in such case no deposit of money shall be required in respect of so much of the estimate of expense as shall be provided for by such surplus funds.

Cases in which declaration and estimated amount of rates may be deposited in lieu of money.

59. In the case of any bill under which no private or personal pecuniary profit or advantage is to be derived, and where the work is to be made out of money to be raised upon the security of the rates, duties, or revenue already belonging to or under the control of the promoters or to be created by or to arise under the bill, a declaration stating those facts, and setting forth the means by which funds are to be obtained for executing the work, and signed by the party or agent soliciting the bill, together with an estimate of the probable amount of such rates, duties, or revenue, signed by the person making the same, may be deposited, and in such case no money deposit shall be required.

### 6. *Bills brought from the House of Commons.*

60. A copy of every railway bill, tramway bill, subway bill, and canal bill brought from the House of Commons shall be deposited in the office of the Board of Trade not later than two days after the bill is read a first time.

Copy of H. C. Railway, &c., Bill to be deposited at Board of Trade.

61. Whenever, during the progress through the House of Commons of any local bill of the second class originating in that House, any alteration has been made in any work authorised by such bill, proof shall be given before the examiners that a plan and section of such alteration, on the same scale and containing the same particulars as the original plan and section, together with a book of reference thereto, has been deposited in the office of the Clerk of the Parliaments and with the clerk of the peace of every county, riding, or division in England or Ireland, and in the office of the sheriff clerk of every county in Scotland in which such alteration is proposed to be made, and where any county in Scotland is divided into districts or divisions, then also in the office of the principal sheriff clerk in and for each district or division in which such alteration is proposed to be made; and that a copy of such plan and section, so far as relates to each parish, together with a book of reference thereto, has been deposited with the parish clerks of each such parish in England, or, in the case of any extra-parochial place, with the parish clerk of some parish immediately adjoining thereto, with the session clerk of each such parish in Scotland, and in royal burghs with the town clerk, and the clerk of the union within which such parish in Ireland is included, in which such alteration is intended to be made, and in the case of any place within the limits of the metropolis as defined by the Metropolis Management Act, 1855, and the acts amending the same, with the clerk of the vestry or of the district board, as the case may be, two weeks previously to the introduction of the bill into this House; and that the intention to make such alteration has been published previously to the introduction of the bill into this House in the London, Edinburgh, or Dublin Gazette, as the case may be, and for three successive weeks in some one and the same newspaper of the county in which such alteration is situate, or if there be no such paper printed therein, then in the newspaper of some county adjoining thereto; and that application in writing, as nearly as may be in the form set forth in the Appendix marked (A.), was made to the owners or reputed owners, lessees or reputed lessees, or, in their absence from the United Kingdom, to their agents respectively, and to the occupiers of lands through which any such alteration is intended to be made; and the consent of such owners or reputed owners, lessees or reputed lessees, and occupiers, to the making of such alteration, shall be proved before the examiner. Compliance with this order shall be optional and not compulsory in the case of alterations made on petition for additional provision in the House of Commons.

Notices to be given and deposits made in cases where work is altered while Bill is in Parliament.

Application to owners, &c., and consent to be proved.

### 7. *Provisions relating to the Consents of Proprietors or Members of Companies already constituted, and of Persons named as Directors.*

62. In the case of every bill, whether originating in this House or in the House of Commons, promoted by a company already constituted by Act of Parliament, proof shall be given before the examiner, before the second reading of the bill in this House, that the following requirements have been complied with, and the examiner shall report accordingly:—

Meeting of proprietors in case of Bills promoted by existing company.

[*The Wharncliffe Order.*]

The bill as introduced or proposed to be introduced into Parliament shall be submitted to the proprietors of such company at a meeting held specially for that purpose:

Such meeting shall be called by advertisement inserted once in each of two consecutive weeks in some one and the same newspaper published in London, Edinburgh, or Dublin, as the case may be, and in some one and the same newspaper of the county or counties in which the principal office or offices of the company is or are situate, and also by a circular addressed to each proprietor at his last known or usual address, and sent by post or delivered at such address not less than ten days before the holding of such meeting, enclosing a blank form of proxy, with proper instructions for the use of the same, and the same form of proxy and the same instructions, and none other, shall be sent to every such proprietor; but no such form of proxy shall be stamped before it is sent out, nor shall the funds of the company be used for the stamping any proxies, nor shall intimation be sent as to any person in whose favour the proxy may be granted; and no other circular or form of proxy relating to such meeting shall be sent to any proprietor from the office of the company, or by any director or officer of the company so describing himself:

Such meeting shall be held not earlier than the seventh day after the last insertion of such advertisement, and may be held on the same day as an ordinary general meeting of the company:

At such meeting the said bill shall be submitted to the proprietors aforesaid then present, and approved by proprietors present in person or by proxy, holding at least three-fourths of the paid-up capital of the company represented by the votes at such meeting, such proprietors being qualified to vote at all ordinary meetings of the company in right of such capital. The votes of proprietors of any paid-up shares or stock other than debenture stock not qualified to vote at ordinary meetings, whose interests may be affected by the bill, if tendered at the meeting shall be recorded separately:

There shall be deposited in the office of the clerk of the Parliaments a statement of the number of votes, if a poll was taken, and of the number of votes recorded separately:

The names of the proprietors present in person at the meeting shall be recorded by the company. For this purpose the meeting, and any other consecutive meetings, whether general or special, and whether preceding or following it, shall be deemed to be the same meeting.

A poll may be demanded by any proprietor present in person at the meeting.

Separate undertakings.

So far as any such bill relates to a separate undertaking in any company as distinct from the general undertaking, separate meetings shall be held of the proprietors of the company and of the separate undertaking, and the provisions of this Order applicable to meetings of proprietors of the company shall mutatis mutandis apply to meetings of proprietors of the separate undertaking.

[63. Meeting of members of limited company under Companies Act, 1862, &c.]

Meeting of proprietors in the case of certain Bills originating in the House of Commons.

64. In the case of every bill brought from the House of Commons in which provisions have been inserted in that House empowering the promoters thereof, being a company already constituted by Act of Parliament, to execute, undertake, or contribute towards any work other than that for which it was originally established, or to sell or lease their undertaking or any part thereof, or to enter into agreements with any other company for the working, maintenance, management, or use of the railway or works of either company, or any part thereof, or to amalgamate their undertaking or any part thereof with any other undertaking, or to purchase any other undertaking or any part thereof, or any additional lands, or to abandon

their undertaking or any part thereof, or to dissolve the said company, or in which any such provisions originally contained in the bill have been materially altered in that House, or in which any such powers are conferred on any company not being the promoters of the bill, the examiner shall report as to compliance or non-compliance with the following requirements :

The bill as introduced or proposed to be introduced into this House shall be submitted to the proprietors of any such company, at a meeting held specially for that purpose :

Such meeting shall be called by advertisement inserted once in each of two consecutive weeks in some one and the same newspaper published in London, Edinburgh, or Dublin, as the case may be, and in some one and the same newspaper of the county or counties in which the principal office or offices of the company is or are situate, and also by a circular addressed to each proprietor at his last known or usual address, and sent by post or delivered at such address not less than ten days before the holding of such meeting, enclosing a blank form of proxy, with proper instructions for the use of the same, and the same form of proxy, and the same instructions, and none other, shall be sent to every such proprietor ; but no such form of proxy shall be stamped before it is sent out, nor shall the funds of the company be used for the stamping any proxies, nor shall intimation be sent as to any person in whose favour the proxy may be granted ; and no other circular or form of proxy relating to such meeting shall be sent to any proprietor from the office of the company, or by any director or officer of the company so describing himself :

Such meeting shall be held not earlier than the seventh day after the last insertion of such advertisement, and may be held on the same day as an ordinary general meeting of the company :

At such meeting the said bill shall be submitted to the proprietors aforesaid then present, and approved by proprietors present in person or by proxy, holding at least three fourths of the paid-up capital of the company represented by the votes at such meeting, such proprietors being qualified to vote at all ordinary meetings of the company in right of such capital. The votes of proprietors of any paid-up shares or stock other than debenture stock not qualified to vote at ordinary meetings, whose interests may be affected by the bill, if tendered at the meeting shall be recorded separately :

The names of the proprietors present in person at the meeting shall be recorded by the company. For this purpose the meeting, and any other consecutive meetings, whether general or special, and whether preceding or following it, shall be deemed to be the same meeting :

A poll may be demanded by any proprietor present in person at the meeting :

There shall be deposited in the office of the clerk of the Parliaments a statement of the number of votes, if a poll was taken, and of the number of votes recorded separately.

So far as any such bill relates to a separate undertaking in any company as distinct from the general undertaking, separate meetings shall be held of the proprietors of the company and of the separate undertaking, and the provisions of this order applicable to meetings of proprietors of the company shall mutatis mutandis apply to meetings of proprietors of the separate undertaking. Separate undertakings.

[65. Meeting of members of limited companies under Companies Act, 1862, &c.]

Proof to be required before examiner of consent of proprietors of company incorporated by Act of Parliament to sum authorized to be raised in aid of undertaking of another company.

66. When any bill as introduced into Parliament or as amended or proposed to be amended on petition for additional provision contains a provision authorising any company incorporated by Act of Parliament, or any class of holders of share or loan capital in any such company, to subscribe or to alter the terms or conditions of any subscription towards or to guarantee or to raise any money in aid of the undertaking of another company (which bill is not brought in by the company so authorised, or of which such company is not a joint promoter), proof shall be required before the examiner before the second reading in this House, if such provision is contained in the bill as introduced into Parliament, that the company or the class of holders of share or loan capital so authorised has consented to such subscription, alteration, guarantee, or raising of money, at a meeting of the proprietors of the company, or of any such class of holders of share or loan capital, as the case may be, held specially for that purpose, in the same manner and subject to the same provisions as the meeting directed to be held under Order 64; and in case such provision is contained in the bill as introduced into Parliament, that the notices for the bill state the specific sum (if any) proposed to be subscribed, or guaranteed, or raised, or the alteration of the terms or conditions of the subscription, as the case may be, or in case such provision shall be proposed to be inserted in the bill on a petition for additional provision, that notices stating the specific sum (if any) proposed to be subscribed, or guaranteed, or raised, or the alteration of the terms or conditions of the subscription, as the case may be, and stating that the consent of the company or of such class of holders of share or loan capital has been given as aforesaid, have been published once in the London, Edinburgh, or Dublin Gazette, as the case may be, and in the county newspapers in which the notices for the bill were published for three successive weeks during the six weeks immediately preceding the presentation of such petition for additional provision.

Petition for additional provision.

Further consent unnecessary.

In any case in which such consent has been given, it shall not be necessary to submit the bill in respect of such provision as aforesaid to the approval of a meeting, to be held in accordance with Order 64.

Railway bills charging payments on grand jury cess or local rate in Ireland to be submitted to and approved by grand jury or local authority.

67. In the case of any railway bill which contains a provision by which the payment of any moneys is directly or contingently charged upon grand jury cess, or any other local rate in Ireland, by means of a guarantee or otherwise.

A copy of the bill, as introduced into Parliament, shall be submitted to the grand jury or other authority empowered to present such grand jury cess, or to make such local rate, and according as the payment of any moneys is by the said bill proposed to be charged upon a county at large, or upon one or more baronies in any county, or upon any part or parts of any barony or baronies, such bill shall also be submitted to the presentment sessions for such county at large, or for such barony or baronies, as the case may be, and also to the poor law guardians of every union in which any lands proposed to be charged with the payment of any moneys are situate.

Notice of intention to submit Bill to grand jury or local authority.

Notice of the intention to submit a copy of such bill to such grand jury or other authority, and to such presentment sessions and board of guardians, shall be given ten days previously to submitting the same to the secretary or clerk of such grand jury or authority or presentment sessions and board of guardians, and shall be advertised once in each of two consecutive weeks in some one and the same morning newspaper published in Dublin, and in some one and the same newspaper published in the county upon which, or upon any barony or baronies in which it is proposed by the bill to impose any local rate or charge, or if in such county no newspaper is published, then in some one and the same newspaper published in any adjoining county.

A copy of such bill shall be so submitted not earlier than six months before the time fixed for the deposit of such bill, and not earlier than the seventh day after the last insertion of such advertisement; and shall be approved by a majority of the members of the grand jury or authority, presentment sessions, and board of guardians respectively then present and voting thereon, and the presentment or resolution of each of the said bodies approving the same, or a duplicate of such presentment or resolution, shall be deposited at the office of the Clerk of the Parliaments, together with a statement under the hand of the foreman, chairman or other person presiding when such presentment was made, or such resolution was passed, of the number of the members then present and voting.

Limit of time for Bill to be submitted. Presentment or resolution to be deposited in Parliament Office

68. When in any bill brought from the House of Commons for the purpose of establishing a company for carrying on any work or undertaking, any person is specified as manager, director, proprietor, or otherwise concerned in carrying such bill into effect, proof shall be required before the examiner that such person has subscribed his name to the petition for the bill, or to a printed copy of the bill, as brought up to this House.

Consent of directors, &c., named in H. C. Bill, to be proved.

## PART III.

### REFERENCE OF BILLS, &C. TO AND DUTIES OF AND PRACTICE BEFORE EXAMINERS.

69. The examination of the local bills proposed to be introduced into either House of Parliament and duly deposited in the office of the clerk of the Parliaments, in pursuance of Order 32, shall commence on the 18th day of January.

When examination of Bills to commence.

70. Every provisional order confirmation bill and every local bill brought from the House of Commons shall, after the first reading, be referred to the examiners, but in respect of such standing orders only as have not been previously inquired into.

Bills brought from the House of Commons.

71. All petitions for additional provision in local bills originating in this House shall, on the presentation thereof, be referred to the examiners.

Petitions for additional provision.

72. One of the examiners shall give at least two clear days' notice of the day on which any bill referred to them after the first reading, or any petition for additional provision shall be examined; but, in the case of a bill for confirming any provisional order or certificate, he shall not give such notice until after the bill has been printed by order of this House.

Notice of examination.

73. Any parties shall be entitled to appear and to be heard, by themselves, their agents and witnesses, upon a memorial addressed to the examiner, complaining of a non-compliance with the standing orders, provided the matter complained of be specifically stated in such memorial, and the party (if any) who may be specially affected by the non-compliance with the standing orders have signed such memorial and have not withdrawn his signature thereto.

Memorials complaining of non-compliance.

74. In case any proprietor, shareholder, or member of or in any company, association, or co-partnership shall, by himself or any person authorized to act for him in that behalf, have dissented at any meeting called in pursuance of Standing Orders Nos. 62, 63, 64, 65, or 66, such proprietor, shareholder, or member shall be permitted to be heard by the examiner on the compliance with such standing order, by himself, his agents and witnesses, upon a memorial addressed to the examiner.

Proprietors dissenting at meeting under Orders 62 to 66 may petition and be heard.

75. Every memorial complaining of non-compliance with the standing orders in respect of any bill referred to the examiners after first reading, or in respect of any petition for additional provision, shall, together with

Deposit of memorials in the Parliament Office.

two copies thereof, be deposited in the office of the Clerk of the Parliaments before twelve o'clock on the day preceding that appointed for the examination.

Examiner to certify whether Standing Orders have or have not been complied with.

76. The examiner shall in each case certify whether the standing orders have or have not been complied with; and when they have not been complied with, he shall certify the facts upon which his decision is founded, and any special circumstances connected with the case; such certificate to be deposited in the office of the Clerk of the Parliaments.

Proof by affidavit.

77. The examiner may admit affidavits in proof of the compliance with the standing orders, or may require further evidence; and such affidavits shall be sworn, if in England, before a justice of the peace or a commissioner to administer oaths in the Supreme Court of Judicature; if in Scotland, before any sheriff depute or his substitute, or a justice of the peace; and if in Ireland, before any judge or assistant barrister of that part of the United Kingdom, or before a justice of the peace.

Special report in certain cases.

78. In case the examiner shall feel doubts as to the due construction of any standing order in its application to a particular case, he shall make a special report of the facts, without deciding whether the standing order has or has not been complied with; and in such case he shall send such special report with the certificate.

When certificates from examiners to be laid on table of House.

79. All certificates from the examiners shall be laid upon the table not later than the first sitting day after the deposit of the certificates in the office of the Clerk of the Parliaments.

## Appointment and Duties of the Standing Orders Committee.

Appointment of Standing Orders committee.

80. At the commencement of every session of Parliament a Standing Orders Committee shall be appointed, consisting of forty lords, besides the Chairman of Committees, who shall be always chairman of such Standing Orders Committee.

Quorum.

81. Three of the lords so appointed, including the chairman, shall be a quorum in all opposed cases.

Notice of meeting of Standing Orders committee.

82. Three clear days' notice shall be given of the meeting of the Standing Orders Committee.

To report whether Standing Orders ought or ought not to be dispensed with.

83. All certificates from the examiners in respect of bills in which they shall certify that the standing orders have not been complied with shall be referred to the Standing Orders Committee, and the committee shall report to the House whether the standing orders ought or ought not to be dispensed with, and in the former case, upon what terms and conditions, if any.

Proceedings in case of special report.

84. All special reports from the examiners as to the construction of a standing order shall be referred to the Standing Orders Committee, and the committee shall determine, according to their construction of the standing order, and on the facts stated in the report, whether the standing orders have or have not been complied with, and they shall report accordingly to the House, and if the committee report that a standing order has not been complied with, they shall also report whether such order ought to be dispensed with, and upon what terms and conditions, if any.

Proceedings before Standing Orders committee upon examiner's certificate or special report.

85. When an examiner's certificate or special report shall be referred to the Standing Orders Committee, the committee, if they think fit, shall hear the parties affected by any standing order referred to in such certificate or special report, provided such parties have deposited in the office of the Clerk of the Parliaments, not later than three o'clock on the second day after the order for the meeting of the committee is made, a statement (to be printed in all opposed cases) of the facts to be submitted to the

committee. Such statement shall be confined strictly to the points reported upon by the examiner, and noparty on the consideration thereof by the committee shall be allowed to travel into any matter not referred to in his statement.

## Part IV.

### First and Second Readings of Bills.

86. No local bill shall be read a first time until the examiner has certified whether the standing orders have or have not been complied with, and no local bill originating in this House shall be read later than three clear days after the certificate in respect of such bill has been laid on the table. Respecting first reading of bills

87. No local bill brought from the House of Commons shall be read a second time until the examiner has certified whether any further standing orders are applicable, and if so, whether such orders have or have not been complied with. Respecting second reading of H. C. bills.

88. No provisional order confirmation bill shall be read a second time until the examiner has certified whether the standing orders have or have not been complied with. Respecting second reading of provisional order bills

89. Notice in writing of any bill relating to England or Ireland, and containing provisions whereby any application of the property of any charity not authorized by the Lands Clauses Consolidation Acts, shall be directed, or the patronage or the constitution of any charity, or the right of any charity to any property, shall be affected, shall be given to the Attorney-General for England or Ireland, as the case may be, and no such bill shall be read a second time until the House has received a report from the Attorney-General on such bill, and such report shall stand referred to the committee on the bill. Report of Attorney-General in case of bill affecting any charity in England or Ireland.

90. No bill by or under the powers of which the maximum rates authorized for the conveyance of passengers, goods, or animals on any railway shall or may be increased shall be read a second time until a report thereon from the Boad of Trade has been laid upon the table of the House. Report of Board of Trade in case of increase of railway rates.

91. No local bill or provisional order confirmation bill shall be read a second time earlier than the fourth day or later than the seventh day after the first reading thereof, except bills, in the case of which the examiner has certified that the standing orders have not been complied with, in which case the second reading shall not be later than the second day on which the House shall sit after the report from the Standing Orders Committee recommending that the bill be allowed to proceed, and except bills referred after the first reading to the examiners under Orders 62, 63, 64, 65, 66, or 67, which bills may be read a second time not later than the fourteenth day after the first reading thereof, and in the case of a certificate of non-compliance, the time for second reading of such last-mentioned bills shall be extended as in the former case. Time for second reading of bills.

### Petitions.

92. No petition praying to be heard upon the merits against any local bill or provisional order confirmation bill originating in this House shall be received by this House unless the same is presented by being deposited in the Private Bill Office before three o'clock in the afternoon on or before the seventh day after the day on which such bill has been read a second time. Time for presenting petitions praying to be heard against H. L. bills.

93. No petition praying to be heard upon the merits against any local bill or any provisional order confirmation bill brought from the House of Commons shall be received by this House, unless the same be presented by Time for presenting petitions praying to be heard against H. C. bills.

being deposited in the Private Bill Office before three o'clock in the afternoon on or before the seventh day after the day on which such bill has been read a first time.

Petition for additional provision.

94. No petition for additional provision shall be presented to this House without the sanction of the Chairman of Committees, and no petition for additional provision shall be received in the case of a bill brought from the House of Commons.

## THE CHAIRMAN OF COMMITTEES—COMMITTEES ON BILLS—COMMITTEE OF SELECTION.

An unopposed bill may be treated as opposed.

95. The Chairman of Committees may, if he think fit, report to the House his opinion that any unopposed bill on which he shall sit as chairman should be proceeded with as an opposed bill.

Committees on opposed bills.

96. Every local bill or provisional order confirmation bill which is opposed shall be referred to a select committee of five.

Committee of selection.

97. The Chairman of Committees and four other lords to be named by the House shall be appointed a committee to select and propose to the House the names of the five lords to form a select committee for the consideration of each opposed local bill or provisional order confirmation bill, and shall appoint the chairman of such committee, and shall name the bill or bills which shall be taken into consideration on the first day of meeting of such committee.

Lords interested exempted from serving.

98. Lords shall be exempted from serving on the committee on any local bill or provisional order confirmation bill wherein they have an interest, and lords shall be excused from serving for any special reasons to be approved of in each case by the House.

Hour of meeting, &c., of committees on opposed bills.

99. Every select committee shall meet not later than eleven o'clock every morning, and shall sit till four, and shall not meet at a later hour nor adjourn at an earlier hour without leave of the House or without reporting to the House the cause of such later meeting or earlier adjournment. No committee shall adjourn over any day except Saturday, Sunday, Christmas Day, and Good Friday, without leave of the House, or without reporting to the House the cause of such adjournment, but should a committee meet on a Saturday the sitting is to be in conformity with this order.

All the members to attend.

100. Every member of a select committee shall attend the proceedings of the committee during the whole continuance thereof, and no lord who is not a member of the committee shall take any part in the proceedings thereof.

Absence of any member.

101. If any member of a select committee is prevented from continuing his attendance, the committee shall adjourn, and shall not resume its sittings, in the absence of such member, without leave of the House; but if the House is not then sitting, the committee may, with the consent of all parties, continue its sittings in the absence of any member, provided that the number of the committee be not less than four, and that the committee report accordingly to the House at its next meeting.

Withdrawal of opposition.

102. In all cases of opposed local bills, in which no parties have appeared on the petitions against such bills, or having appeared have withdrawn their opposition before their case has been fully opened, or whose locus standi has been disallowed, the committees on such bills shall report accordingly to the House, and such bills shall thereupon be referred to the Chairman of Committees, to be dealt with by him as if originally unopposed.

A petitioner against a bill originating in the House of Commons, who has discussed clauses in that House, shall not on that account be precluded from opposing the preamble of the bill in this House. Discussion of clauses in H. C. not to preclude opposition to preamble in H. L.

## Proceedings by and in relation to Committees on Local Bills.

### *General Provisions.*

103. No committee on any local bill shall examine into the compliance with any standing orders required to be proved before the examiners. No committee to inquire into Standing Orders proved before the examiners.

104. Any agreement intended to be scheduled to any bill shall contain a clause declaring the same to be made subject to such alterations as Parliament may think fit to make therein; but if the committee on the bill make any material alteration in any such agreement it shall be competent to any party thereto to withdraw the same. Scheduled agreements may be altered by Parliament.

104*a*. The committee on any local bill may, if they think fit, admit affidavits in proof of any deed or document mentioned or set forth in the Bill or in any schedule thereto, or may require further evidence. Such affidavits shall be intituled "In the matter of a bill now pending in the House of Lords, of which the short title is [insert the short title]," and shall be sworn, if in England, before a justice of the peace or a commissioner to administer oaths in the Supreme Court of Judicature; if in Scotland, before any sheriff depute or his substitute, or a justice of the peace; and if in Ireland, before any judge or assistant barrister of that part of the United Kingdom, or before a justice of the peace. Such affidavits shall be filed in the office of the Clerk of the Parliaments. Committees on local bills may admit affidavits as evidence.

105. In case any proprietor, shareholder, or member of or in any company, association, or co-partnership shall, by himself or any person authorised to act for him in that behalf, have dissented at any meeting called in pursuance of any of the aforesaid standing orders Nos. 62, 63, 64, 65, and 66, or at any meeting called in pursuance of any similar order of the House of Commons, such proprietor, shareholder, or member shall be permitted, on petitioning the House, to be heard by the committee on the bill, by himself, his counsel or agents, and witnesses. Proprietors dissenting at meeting under Orders 62 to 66 may petition and be heard against a bill.

105*a*. Where a chamber of commerce or agriculture, or other similar body sufficiently representing a particular trade or business, in any district to which any railway bill relates, petition against the bill, alleging that such trade or business will be injuriously affected by the rates and fares proposed to be authorised by the bill, it shall be competent for the select committee to whom the bill is referred, if they think fit, to hear the petitioners or their counsel or agents and witnesses on such allegation against the bill, or any part thereof, or against the rates and fares proposed to be authorised by the same. Chamber of Commerce, &c., may petition and be heard against railway bill, or against rates and fares proposed thereby.

106. Every report made on any bill by or under the authority of any public department shall stand referred to the committee on the bill. Reports from public departments referred to committee on bill.

107. In every local bill by which any second class work is authorised, a clause shall be inserted to the effect that in case such work be not completed, within a period to be limited, all the powers and authorities given by the bill shall thenceforth cease and determine, save only as to so much of such work as has been completed within such time, with such provisions and qualifications as the nature of the case shall require. Such period shall not exceed in the case of a new railway five years, and in the case of a new tramway two years, and in the case of extension of time for the completion of any railway three years, and for the completion of any tramway one year. In the case of extension of time the additional period shall be computed from the expiration of the period sought to be extended. If work not completed within time limited power to cease. Periods for completion.

Level of roads.

108. Provision shall be made in every local bill under which the level of any road is to be altered that the ascent of any turnpike road, or of any ordinary highway which has ceased to be a turnpike road, or of any road in Ireland so defined in the Railway Clauses Consolidation Act, 1845, shall not be more than one foot in thirty feet, and of any other public carriage road not more than one foot in twenty feet; and that a good and sufficient fence of four feet high at the least shall be made on each side of every bridge which shall be erected; and with regard to railways the same regulation shall be enforced, except so far as a report thereon from the proper officer of the Board of Trade shall recommend steeper ascents, or the committee, after considering such report, shall be of opinion that an ascent not recommended thereby should be authorised, in which case they shall report accordingly, with the reasons and facts upon which their opinion is founded.

Bridges to be fenced.

Level of railways.

As to conversion of borrowed money into capital in certain cases.

109. In any bill by which the profits of any company are limited, provision shall be made that the company shall not have power to raise the money by the bill authorised to be borrowed on mortgage or any part thereof by the creation of shares or stock instead of borrowing or to convert into capital the amount borrowed under the provisions of the bill or any part thereof, unless in either case all dividends upon the shares or stock, whether ordinary or preferential, are limited to a rate not exceeding five pounds per centum per annum.

Consent of Board of Trade to be given to variation of work, other than a railway, affecting tidal waters.

110. Where a public navigable tidal river or channel is included within the limits of deviation of any work, other than a railway, a clause shall be inserted in the bill that no deviation of such work shall be made from the lines thereof, as marked on the deposited plan, even within the limits of deviation shown on such plan, in such manner as to diminish the navigable space, without the previous consent of the Board of Trade, or otherwise than in such manner as is expressly authorised by the Board of Trade.

Provisions with respect to houses occupied by labouring class.

111. In the case of every bill which contains power to take land compulsorily or by agreement a clause shall be inserted—

(1.) Providing that the promoters shall not in the exercise of such power purchase or acquire in any parish in the Metropolis, twenty or more houses, or as regards England and Wales, exclusive of the Metropolis, in any city, borough, or other urban sanitary district, or in any parish or part of a parish not being within an urban sanitary district, or in Scotland in any district within the meaning of the Public Health (Scotland) Act, 1867, or in Ireland in any urban sanitary district as defined by the Public Health (Ireland) Act, 1878, ten or more houses, occupied either wholly or partially by persons belonging to the labouring class, as defined by this order, as tenants or lodgers, unless and until

(*a.*) They shall have obtained the approval of the central authority to a scheme for providing new dwellings for the persons residing in such houses, or for such number or proportion of such persons as the central authority shall, after inquiry, deem necessary, having regard to the number of persons residing in the houses liable to be taken and working within one mile therefrom, and to the amount of vacant suitable accommodation in the immediate neighbourhood of the houses liable to be taken, or to the place of employment of such persons, and all the other circumstances of the case; and

(*b.*) They shall have given security to the satisfaction of the central authority for the carrying out of the scheme;

(2.) Imposing adequate penalties on the promoters in the event of houses being acquired or appropriated for the purposes of the bill in contravention of the foregoing provisions; and

(3.) Conferring on the promoters and on the central authority respectively any powers that may be necessary to enable full effect to be given to the said scheme :

The committee on the bill may provide that the expenses or any part of the expenses incurred by the central authority under this order shall be defrayed by the promoters of the bill, or out of moneys to be raised under the bill :

In this order and in Order 38—

The expression "labouring class" includes mechanics, artizans, labourers, and others working for wages, hawkers, costermongers, persons not working for wages but working at some trade or handicraft without employing others except members of their own family, and persons, other than domestic servants, whose income does not exceed an average of thirty shillings a week, and the families of any of such persons who may be residing with them :

The expression "the Metropolis" means the Metropolis as defined by the Metropolis Management Act, 1855 :

The expression "central authority" means as regards the Metropolis the Secretary of State for the Home Department, and as regards England and Wales, exclusive of the Metropolis, the Local Government Board, as regards Scotland the Secretary for Scotland, and as regards Ireland the Local Government Board for Ireland :

The word "bill" includes a bill confirming a provisional order.

*Railway, Tramway, Tramroad, and Subway Bills.*

112. In the case of a railway bill no company shall be authorised to raise by mortgage or debenture stock, a larger sum than one-third of their capital ; and until fifty per cent. on the whole of the capital has been paid up it shall not be in the power of the company to raise any money by mortgage or debenture stock. Restrictions as to mortgage in railway bills.

The same rule shall apply in the case of a tramway, tramroad, or subway bill, one-fourth of the capital being substituted for one-third.

113. No railway whereon carriages are propelled by steam or by atmospheric agency, or drawn by ropes in connection with a stationary steam engine, shall be authorised to be made across any railway, tramway, turnpike road or other public carriageway on the level, unless a report thereon from the proper officer of the Board of Trade recommend such level crossing, or the committee on the bill, after considering such report, be of opinion that any level crossing not recommended thereby should be authorised, in which case they shall report accordingly, with the reasons and facts upon which their opinion is founded ; and in every clause authorising a level crossing, the number of lines of rails authorised to be made at such crossing shall be specified. Crossing of roads on the level by railway.

114. In every railway bill and tramway bill whereby the construction of any new line of railway or tramway is authorised, or the time for completing any line already authorised is extended, promoted by an existing railway company or tramway company which is possessed of a railway or tramway already opened for public traffic, and which has during the year last past paid dividends on its ordinary share capital, and which does not propose to raise under the bill a capital greater than its existing authorised capital, there shall be inserted a clause to the following effect ; viz., Clause to be inserted in railway and tramway bills imposing penalty unless line be opened.

(A.) If the company fail within the period limited by this act to complete the railway or tramway authorised to be made by this Act, the company shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the said

railway or tramway is completed and opened for public traffic [or if a passenger railway for the public conveyance of passengers], or until the sum received in respect of such penalty shall amount to five per cent. on the estimated cost of the works; and the said penalty may be applied for by any [road authority] landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this Act, or by the Solicitor to Her Majesty's Treasury, and in the same manner as the penalty provided in the third section of "The Railway and Canal Traffic Act, 1854," and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in the said section, to an account opened or to be opened in the name and with the privity of the Paymaster-General for and on behalf of the Supreme Court of Judicature in England [the Queen's Remembrancer of the Court of Exchequer in Scotland, or the Accountant General of the Supreme Court of Judicature in Ireland (according as the railway or tramway is situate in England, Scotland, or Ireland) ] in the bank and to the credit specified in such warrant or order, and shall not be paid thereout except as hereinafter provided; but no penalty shall accrue in respect of any time during which it shall appear, by a certificate to be obtained from the Board of Trade, that the company was prevented from completing or opening such line by unforeseen accident or circumstances beyond their control; provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

**Clause to be inserted in railway and tramway bills providing that deposit be impounded as security for the completion of the line.**

115. In every Railway Bill or Tramway Bill whereby the construction of any new line is authorised, or the time for completing any line already authorised is extended, if such bill be promoted by or on behalf of a railway or tramway company to be thereby incorporated or by an existing railway company or tramway company which is not possessed of a railway or tramway already opened for public traffic, or which has not during the year last past paid dividends on its ordinary share capital, or by an existing railway company or tramway company when the capital to be raised under the bill is greater than the existing authorised capital of the company, there shall be inserted a clause to the following effect; viz.,

(B.) Whereas, pursuant to the Standing Orders of both Houses of Parliament and to an act of the 9th year of Her present Majesty, cap. 20, a sum of £ , being five per cent. upon the amount of the estimate in respect of the railway [or tramway] authorised by this act, has been deposited with the paymaster-general for and on behalf of the Supreme Court of Judicature in England [or with the Court of Exchequer in Scotland, or the accountant-general of the Supreme Court of Judicature in Ireland, as the case may be], [or exchequer bills, stocks, or funds to the amount of £ , have been deposited or transferred pursuant to the said act, as the case may be], in respect of the application to Parliament for this act, which sum, exchequer bills, stocks, or funds, as the case may be, is or are in this act referred to as the deposit fund: Be it enacted, that, notwithstanding anything contained in the above-mentioned act, the said deposit fund shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said act, or the survivors or survivor of them, which persons, survivors, or survivor, are or is in this act referred to as the depositors, unless the company shall,

previously to the expiration of the period limited by this act for completion of the railway [or tramway] hereby authorised to be made [or the time for completing which is hereby extended], open the said railway [or tramway] for public traffic [or if a passenger railway for the public conveyance of passengers]: Provided, that if within such period as aforesaid the company open any portion of the said railway [or tramway] for public traffic [or if a passenger railway for the public conveyance of passengers], then, on production of a certificate of the Board of Trade, specifying the length of the portion of the said railway [or tramway] opened as aforesaid, and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the said railway [or tramway] so opened bears to the entire length of the said railway [or tramway] hereby authorised, the High Court of Justice in England [Ireland] [Court] shall, on the application of the depositors, or the majority of them, order the said portion of the deposit fund so specified in such certificate as aforesaid to be paid or transferred to them, or as they shall direct; and the certificate of the Board of Trade shall, if signed by the secretary or by an assistant secretary of the said board, be sufficient evidence of the facts therein certified, and it shall not be necessary to produce any certificate of this act having passed, anything in the recited act to the contrary notwithstanding.

116. In every Railway Bill or Tramway Bill whereby the construction of any new line of railway or tramway is authorised, or the time for completing any line already authorised is extended, the following clauses shall be inserted in the order in which they are here placed immediately after clause A or clause B whichever shall have been inserted in the bill; viz.,

Clauses to be inserted providing for application of deposit or penalty in compensation to persons injured.

*Application of deposit or penalty in compensation to parties injured.*

(C.) If the company do not previously to the expiration of the period limited by this act for the completion of the railway [or tramway] hereby authorised to be made [or the time for completion of which is hereby extended], complete the said railway [or tramway] and open it for public traffic [or if a passenger railway for the public conveyance of passengers], then and in every such case the deposit fund, or so much thereof as shall not have been paid to the depositors, [or any sum of money so recovered by way of penalty as aforesaid], shall be applicable, and after due notice in the "London Gazette" [or "Edinburgh" or "Dublin Gazette," as the case may require], shall be applied towards compensating any landowners or other persons whose property may have been interfered with, or otherwise rendered less valuable, by the commencement, construction, or abandonment of the said railway or tramway, or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the company by this act, and for which injury or loss no compensation or inadequate compensation shall have been paid [and also (in the case of a tramway) in compensating all road authorities for the expense incurred by them in taking up any tramway or materials connected therewith placed by the company in or on any road vested in or maintainable by such road authorities respectively, and in making good all damage caused to such roads by the construction or abandonment of such tramway], and shall be distributed in satisfaction of such compensation as afore-

said, in such manner, and in such proportions as to the court may seem fit; and if no such compensation shall be payable, or if a portion of the deposit fund [or of the sum or sums of money recovered by way of penalty as aforesaid] shall have been found sufficient to satisfy all just claims in respect of such compensation, then the deposit fund [or the sum or sums of money recovered by way of penalty as aforesaid], or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty, and shall accordingly be paid or transferred to or for the account of Her Majesty's exchequer in such manner as the court thinks fit to order on the application of the solicitor to Her Majesty's treasury, and shall be carried to and form part of the consolidated fund of the United Kingdom, or, in the discretion of the court, if the company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver or to the liquidator or liquidators of the company, or be otherwise applied as part of the assets of the company for the benefit of the creditors thereof; provided that until the deposit fund shall have been repaid to the depositors, or shall have become otherwise applicable as hereinbefore mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, be paid to or on the application of the depositors.

Proviso respecting dividends on deposit money.

N.B.—*If the clause lettered* (A.) *is inserted in the bill, the proviso at the end of the clause lettered* (C.) *shall be omitted.*

Time limited for completion of line.

(D.) If the railway or tramway authorised by this act shall not be completed within the period limited by this act, then, on the expiration of such period, the powers by this act granted to the company for making and completing the said railway or tramway, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Clause prohibiting use of compulsory powers may be inserted in railway and tramway bills promoted merely to serve private interests.

117. If the committee on any Railway Bill or Tramway Bill decide that general compulsory powers to enter upon, take, or use lands for the purposes of any railway or tramway ought not to be given on the ground that the direct object of such railway or tramway is to serve private interests in any lands, mines, manufactories, or other property, the committee may insert a clause or proviso to that effect:

If the bill contains a penalty clause,

Proviso that penalty for non-completion shall not accrue

That no penalty shall accrue in respect of such railway or tramway if it shall appear by a certificate to be obtained from the Board of Trade that the company was prevented by the want of such compulsory powers from making such railway or tramway without incurring unreasonable delay, inconvenience, or expense:

If a deposit has been made,

Proviso for return of deposit to promoters.

That the High Court of Justice [Court of Exchequer in Scotland or High Court of Justice in Ireland, as the case may be] may and shall at any time on the application of the persons named in the warrant or order issued in pursuance of the said act of the ninth year of the reign of Her present Majesty, chapter twenty, or of the survivors or survivor of them, or of the majority of such persons or survivors, or the legal personal representatives of the last survivor, and on the production of a certificate to be obtained from the Board of Trade that the company was prevented by want of such compulsory powers from making such railway or tramway without incurring unreasonable delay, inconvenience, or expense, order that the cash, or exchequer bills, stocks, or funds, as the case may be, deposited or transferred in respect of such railway or tramway, and the interest or dividends

thereon, may be paid or transferred to the person or persons so applying, or to any other person or persons whom they or he may appoint in that behalf.

118. In any Railway Bill or Tramway Bill to which the preceding provisions are not applicable, the committee on the bill shall make such other provision as they deem necessary for ensuring the completion of the line of railway or tramway.

Where previous provisions are inapplicable.

119. The committee on every Railway Bill shall fix the tolls and shall determine the maximum rates of charge for the conveyance of passengers with a due amount of luggage and of animals and goods on the railway; and such rates of charge shall include the tolls and the costs of locomotive power, and every other expense connected with the conveyance of passengers with a due amount of luggage and of animals and goods upon the railway.

Committee on railway bill to fix the tolls and charges

120. In every Railway Bill authorising a company to grant any preference or priority in the payment of interest or dividends on any shares or stock, a clause shall be inserted providing that the granting of such preference or priority shall not prejudice or affect any preference or priority in the payment of interest or dividends on any other shares or stock which may have been granted by the company in pursuance of or which may have been confirmed by any previous Act of Parliament, or which may otherwise be lawfully subsisting.

In railway bills granting preference in payment of interest, &c., provision to be made that the same shall not prejudice former grants of preference.

121. No powers of purchasing, hiring, or providing steam vessels shall be contained in a bill by which any other powers are sought to be obtained by a railway company except when the transit by such steam vessels is required to connect portions of railway belonging to or proposed to be constructed by such company.

Restrictions on purchase, &c., of steam vessels in railway bills.

122. No powers of purchase, sale, lease, or amalgamation shall be given to any railway company, with reference to any other undertaking already authorised unless a certificate has been obtained from the Board of Trade that the companies, parties to such purchase, sale, lease, or amalgamation, have respectively paid up one half of the capital authorised to be raised by any previous act or acts by means of shares, and have expended for the purpose of such act or acts a sum equal thereto; and in case such powers shall be applied for in respect of works intended to be authorised by any bill or bills of the same session, that such companies have respectively paid up one half the amount of their capital, and that the company proposed to be empowered to construct such works have included in such amount the capital proposed to be authorised by such bill or bills; and no such powers shall be given in respect of works intended to be authorised by any act or acts for which it is intended to apply in any subsequent session.

No powers of purchase, &c., to be given to railway company except after proof of certain matters before Board of Trade.

123. No bill by which a railway company is incorporated shall contain any powers of purchase, sale, lease, or amalgamation, or any working agreement not made unconditionally determinable by the company at the expiration of a period not exceeding ten years from the passing of the act, or any power of entering into working agreements, except under the provisions of Part III. (working agreements) of the Railways Clauses Act, 1863, as amended by the Regulation of Railways Act, 1873.

Restriction on powers of purchase, &c., in bills for incorporation of a railway company.

124. When by any bill powers are applied for to amalgamate with any other company, or to sell or lease the undertaking, or any part thereof, or to purchase or take on lease the undertaking of any other company, or any part thereof, or to enter into a working agreement, otherwise than under the provisions of Part III. (working agreements) of the Railways Clauses Act, 1863, as amended by the Regulation of Railways Act, 1873, the company, person or persons, with, to, from, or by whom, and the terms and conditions on which it is proposed that such amalgamation, sale, purchase, lease, or

Terms of proposed amalgamation, &c., to be specified in bill.

working agreement shall be made, shall be specified in the bill as introduced into Parliament.

Railway company not to guarantee interest or dividend before completion of line.

125. No railway company shall be authorised, except for the execution of its original line or lines, to guarantee interest on any shares which it may issue for creating additional capital, or to guarantee any rent or dividend to any other railway company, until such first mentioned company shall have completed and opened for traffic such original lines.

Limitation of capital on amalgamation of railway companies.

126. In bills for the amalgamation of railway companies, the amount of capital created by such amalgamation shall in no case exceed the sum of the capitals of the companies so amalgamated.

Additional capital of purchasing company not to amount to more than capital of company purchased.

127. In bills for empowering any railway company to purchase any other railway, no addition shall be authorised to be made to the capital of the purchasing company beyond the amount of the capital of the railway purchased; and in case such railway shall be purchased at a premium, no addition on account of such premium shall be made to the capital of the purchasing company.

No interest out of capital to be paid on calls under railway bills, except such as the committee think fit to allow.

128. A clause shall be inserted in every Railway Bill prohibiting the payment of any interest or dividend out of any capital which the company have been or may be authorised to raise, either by means of calls, or of any power of borrowing, to any shareholder on the amount of the calls made in respect of the shares held by him, except such interest on money advanced by any shareholder beyond the amount of the calls actually made as in conformity with the Companies Clauses Consolidation Act, 1845, or the Companies Clauses Consolidation (Scotland) Act, 1845, as the case may be; and except such interest (if any) as the committee on the bill may, according to the circumstances of the case, think fit to allow, subject always to the following conditions:—

(1.) That the rate of interest allowed by the committee do not in any case exceed four per centum per annum;

(2.) That interest be allowed to be paid in respect only of the time allowed by the bill for the completion of the railway, or such less time as the committee think fit;

(3.) That payment of interest be not allowed to begin until the railway company have obtained a certificate of the Board of Trade to the effect that two-thirds at least of the share capital authorised by the bill, in respect whereof interest may be paid, have been actually issued and accepted, and are held by shareholders, who, or whose executors, administrators, successors, or assigns, are legally liable for the same;

(4.) That interest do not accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear;

(5.) That the aggregate amount to be so paid for interest be estimated and stated in the bill, and be not deemed capital within Standing Order 112;

(6.) That notice of the company having power so to pay interest out of capital be given in every prospectus, advertisement, or other document of the company inviting subscriptions for shares, and in every certificate of shares; and

(7.) That the half-yearly accounts of the company do show the amount on which, and the rate at which, interest has been paid:

And the company shall be authorised by the bill to pay interest accordingly, but not further or otherwise.

If in any case the committee on the bill do not think fit to allow any such interest, then there shall be inserted in the bill provisions making liable to penalties, recoverable summarily, any director or officer of the company who shall, directly or indirectly, pay or procure to be paid any

interest or dividend prohibited as aforesaid, and making illegal and void any contract entered into by the company, or the directors thereof, or any of them, under which payment of any interest or dividend prohibited as aforesaid shall be, directly or indirectly, provided for.

129. A clause shall be inserted in every railway bill, by which any money is authorised to be raised, prohibiting the company from paying out of such money the deposits required by the standing orders to be made for the purposes of any application to Parliament for a bill for the construction of another railway. Deposits not to be paid out of railway capital.

130. The following clause shall be inserted in every railway bill by which a new company is proposed to be incorporated : Election of directors in railway companies.

The directors appointed by this act shall continue in office until the first ordinary meeting to be held after the passing of the act, and at such meeting the shareholders present, personally or by proxy, may either continue in office the directors appointed by this act, or any number of them, or may elect a new body of directors or directors to supply the places of those not continued in office, the directors appointed by this act being eligible as members of such new body.

131. In every railway bill and tramway bill the length of each railway and tramway shall be set forth in miles, furlongs, chains, and links or yards, or decimals of a chain, in the clause describing the works, with a statement in the case of each tramway whether it is a single or double line. Two lines of tramway running side by side shall be described as a double line. Length of railway or tramway to be stated.

132. The following clause shall be inserted in all railway bills and tramway bills : Clause as to railway and tramway not to be exempt from any general act.

Nothing herein contained shall be deemed or construed to exempt the railway [tramway] by this act [or the said recited acts] authorised to be made from the provisions of any general act relating to railways [tramways] now in force, or which may hereafter pass during this or any future session of Parliament, or from any future revision and alteration, under the authority of Parliament, of the maximum rates of fares and charges authorised by this act [or by the said recited acts].

133. No powers shall be given to any municipal corporation, local board, improvement commissioners, or other local authority to place or run carriages upon any tramway, and to demand and take tolls and charges in respect of the use of such carriages. No powers to be given to local authorities to run carriages and take tolls upon tramways.

133*a*. The foregoing Orders No. 90 and Nos. 113 to 133 inclusive shall apply mutatis mutandis to subways, subway companies, and subway bills, and to tramroads, tramroad companies, and tramroad bills. Application of orders to subways and tramroads.

133B. In every bill for the construction of a tramroad of railway gauge, and intended to communicate with a railway, a clause shall be inserted that the provisions of the Railway and Canal Traffic Act, 1854, and of the Regulation of Railways Acts, 1873 and 1874, shall apply to the company as if they were a railway or canal company, and to the tramroad to be authorised by the act as if such tramroad were a railway or canal. Application of Railway and Canal Traffic Act, &c., to tramroads.

[134—140. Local Government Bills, &c., &c.]

## RE-COMMITMENT AND MISCELLANEOUS MATTERS.

141. No local bill which has been reported from a select committee shall be recommitted to the same or another select committee before the third day on which the House shall sit after the day on which notice has been given of the motion to recommit the bill. Re-commitment

Bills in some cases to be committed to a committee of the whole House.

142. The chairman of committees may, if he think fit, propose to the House that any local bill shall, after it has been reported, be committed to a committee of the whole House; in which case the bill, printed as reported, shall be delivered by the promoters to the Lords in the same manner as papers printed by this House are delivered, at least two days before the day for which the bill is committed. But no local bill committed to a committee of the whole House under this order shall by reason of such commitment be allowed to proceed as a public bill.

Copy of railway bill as amended in committee to be deposited at Board of Trade.

143. A copy of every railway bill, tramway bill, and subway bill, if amended in committee, shall, as so amended, be deposited at the office of the Board of Trade three days before the bill is read a third time, and proof of compliance with this order shall be given by depositing a certificate from that board in the office of the Clerk of the Parliaments.

Copy of local bill, as amended in committee, to be deposited at Treasury and General Post Office.

143*a*. A copy of every local bill, if amended in committee, shall, as so amended, be deposited at the office of her Majesty's Treasury and at the General Post Office three days before the bill is read a third time.

Amendments on report and on third reading.

144. No amendment shall be moved to any local bill on report or third reading, unless the same has been submitted to the Chairman of Committees, and copies of such amendment (to be printed unless the Chairman of Committees shall consider printing to be unnecessary) deposited in the office of the Clerk of the Parliaments one clear day at least prior to the report or third reading of the bill.

Amended bills to be reprinted.

145. All local bills in which any amendments have been made in committee shall be reprinted, as amended, previously to the third reading, unless the Chairman of Committees shall consider the reprinting to be unnecessary.

Clerks of peace to write a memorial on plans, &c.

147. Clerks of the peace, sheriff clerks, and their respective deputies, shall make a memorial in writing upon the plans, sections, and books of reference deposited with them under these orders, denoting the time at which the same were lodged in their respective offices, and shall at all seasonable hours of the day permit any person to view and examine one of the same, and to make copies or extracts therefrom; and one of the two plans and sections so deposited shall be sealed up and retained in the possession of the clerk of the peace or sheriff clerk until called for by order of one of the two Houses of Parliament. (*See* Act, 1 Vict. c. 83.)

Printing of petitions.

147*a*. Petitions for additional provision, and petitions praying to be heard upon the merits, against any local or personal bill or provisional order confirmation bill, and petitions praying to be heard against alterations, shall be printed by the agent concerned for the same as soon as he may consider it necessary that copies should be made, and printed copies shall be supplied on payment to all parties interested.

# APPENDIX (A.).

FORM REFERRED TO IN STANDING ORDER No. 11.

No. .

SIR,—We beg to inform you, that application is intended to be made to Parliament in the ensuing session for "an act" [*here insert the title of the act*], and that the property mentioned in the annexed schedule, or some part thereof, in which we understand you are interested as therein stated, will be required for the purposes of the said undertaking, according to the line thereof as at present laid out, or may be required to be taken under the usual powers of deviation to the extent of yards on either side of the said line, which will be applied for in the said act.

We also beg to inform you, that a plan and section of the said undertaking, with a book of reference thereto, have been or will be deposited with the [several clerks of the peace, *or* principal sheriff clerks, *as the case may be*,] of the counties of [*specify the counties in which the property is situate*], on or before the 30th of November, and that copies of so much of the said plan and section as relates to the [parish *or* extra-parochial place, *as the case may be*], in which your property is situate, with a book of reference thereto, have been or will be deposited for public inspection with the [clerk of the said parish, clerk of the parish of adjoining to such extra-parochial place, clerk of the vestry of the parish of , clerk of the district board of , session clerk, town clerk of the royal burgh, *or* clerk of the union in which such parish is included, *as the case may be*], on or before the 30th day of November, on which plans your property is designated by the numbers set forth in the annexed schedule.

[We also beg to inform you that it is intended that the act shall provide to the effect that notwithstanding section 92 of the Lands Clauses Consolidation Act, 1845 [section 90 of the Lands Clauses Consolidation (Scotland) Act, 1845], you may be required to sell and convey a part only of your property numbered on the deposited plans.]

As we are required to report to Parliament whether you assent to or dissent from the proposed undertaking, or whether you are neuter in respect thereto, you will oblige us by writing your answer of assent, dissent, or neutrality in the form left herewith, and returning the same to us with your signature on or before the day of next; and if there should be any error or misdescription in the annexed schedule, we shall feel obliged by your informing us thereof at your earliest convenience, that we may correct the same without delay.

We are, sir,
Your most obedient servants,

To

*Note.*—If the application be forwarded by post, the words "Parliamentary Notice" are to be printed or written on the cover.

SCHEDULE REFERRED TO IN THE FOREGOING NOTICE,

Describing the Property therein alluded to.

| —— | Parish, Township, Townland, or extra-parochial Place. | Number on Plans. | Description. | Owner. | Lessee. | Occupier. |
|---|---|---|---|---|---|---|
| Property on the line of the proposed work, or within the limits of the deviation intended to be applied for. | | | | | | |

## RULES TO BE OBSERVED

### As to Proof of Compliance with the Standing Orders previous to the Introduction of Private Bills.

The sittings of the examiners for standing orders will commence on the 18th January.

The promoters of each bill will be required to prove compliance with the standing orders of both Houses of Parliament at the time appointed by the examiners, which can be ascertained at the Private Bill Office of the House of Commons.

The printed statements of proofs can be obtained at the Queen's printers.

Where lists are annexed to affidavits, the name of the agent is to be entered in the statement of proofs as delivering in such lists, followed by the names of the witnesses proving the service of notices or deposit of documents, as the case may be.

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Memorials complaining of non-compliance with the standing orders (of either House) applicable previously to the introduction of private bills must be deposited in the Private Bill Office, House of Commons, as follows:

If the same relate to bills numbered in the General List published by the Private Bill Office of the House of Commons—

| | | |
|---|---|---|
| From 1 to 100 . . | They must be deposited before two o'clock on . . . | January 9. |
| ,, 101 to 200 . . | | ,, 16. |
| ,, 201 and upwards . | | ,, 23. |

Examiner's Office,
*6th August*, 1861.

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## TAXATION OF COSTS.

### Costs Taxable by the Taxing Officer of the House of Lords and Mode of Proceeding.

The costs taxable by the taxing officer of the House of Lords are—

Private bills, provisional orders, &c.

All costs, charges, and expenses, including the expenses of witnesses, of and incidental to the preparation, bringing in, and carrying through Parliament any Railway or other local and personal bill, and any estate or other private bill, or any provisional order or provisional certificate, and the costs, charges, and expenses incurred in opposing any such bill, provisional order, or provisional certificate. Such costs are taxed either under the provisions of the 12 & 13 Vict. c. 78, and the 28 & 29 Vict. c. 27, *or upon a requisition of one of her Majesty's principal Secretaries of State, or of a Government department, or of any court in England, Ireland or Scotland, or in the discretion of the taxing officer at the request of the parties interested in the same.*

*The Mode of Proceeding.*

When the costs are to be taxed under the provisions of 12 & 13 Vict. c. 78, a copy of such costs, with an indorsement thereon stating that a copy of such costs had been duly served upon A. and B., who are the parties liable to pay the same, and requesting an appointment to tax, must be deposited in the Taxing Office of the House of Lords, and due notice of an appointment to tax will be sent from the Taxing Office to each party.

When costs are to be taxed under the provisions of 28 & 29 Vict. c. 27, a copy of such costs (*with an endorsement thereon stating that the provisions of section* 3 *of the above act, so far as the same relate to the delivery of the bill of costs to the party chargeable with the same, have been complied with, and requesting an appointment to examine and tax the same*), must be deposited in the Taxing Office; and such application must be made to the taxing officer within the time limited by the said section of the said act.

The bills of costs which are referred by either of the courts are usually exhibits in the court by which they are referred, in which case there is endorsed on the back of the original bill a requisition in the following words:—

*The Master of the Rolls, Chief Clerk, Taxing Master of the Chancery Division of the High Court of Justice (or as the case may be) requests the taxing officer of the House of Lords to tax the within bill of costs, and to report to him the amount at which he has allowed the same.*

(Signed) A. B.

TAXING.

Any Parliamentary agent, attorney, solicitor, or other person applying for the taxation of any bill of costs, charges, and expenses incurred by him in promoting or opposing any private bill, provisional order, or provisional certificate, in Parliament, is desired to deposit in the office of the taxing officer, at the time of making such application, a copy of such bill of costs, charges, and expenses, with the several items added up and the amount ascertained and set out, together with a declaration signed by him stating that such bill of costs, charges, and expenses has been duly delivered to the parties charged therewith (naming the parties), in conformity with the Taxation of Costs Acts, 1847 and 1849, or the Act for Awarding Costs, 1865, as the case may be.

J. H. WARNER,
*Taxing Officer.*

TAXING OFFICE, HOUSE OF LORDS,
11*th February*, 1887.

NOTE.—The Taxing Office is open throughout the session, and from the second Monday in the month of November in each year.

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Printed lists of charges for Parliamentary agents, attorneys, solicitors, and others, prepared by the Clerk of the Parliaments, may be obtained at the Office for the Sale of Printed Papers, House of Lords.

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## SCHEDULE OF FEES TO BE CHARGED AT THE HOUSE OF LORDS.

LOCAL OR PERSONAL BILL.

| | £ | s. | d. |
|---|---|---|---|
| Deposit of original plan | 0 | 10 | 6 |
| Order for consideration of standing order | 1 | 1 | 0 |
| Order thereon | 1 | 1 | 0 |
| Certificates of examiners in case of any one bill | 5 | 0 | 0 |
| Order referring certificate to Standing Orders Committee | 1 | 1 | 0 |
| Standing Orders Committee thereon | 4 | 15 | 0 |
| Report of Standing Orders Committee thereon made on the day of consideration thereof | 2 | 0 | 0 |
| Report of Standing Orders Committee thereon made on a subsequent day | 1 | 1 | 0 |
| Report of Standing Orders Committee orders not to be dispensed with | 1 | 1 | 0 |
| FIRST READING | 5 | 5 | 0 |
| Notice of second reading | 0 | 10 | 6 |
| SECOND READING: | | | |
| PERSONAL BILLS: | | | |
| Estate; Patent | 81 | 0 | 0 |
| A. Disabilities removal; Divorce; Naturalisation; Name; Oath | 27 | 0 | 0 |

(No fees are charged upon an indemnity or restoration bill.)

| | £ | s. | d. |
|---|---|---|---|
| LOCAL BILLS: | | | |
| Bill relating to charitable, literary, or scientific purposes whereby no private profit or advantage is derived | 27 | 0 | 0 |
| For the supply of gas *only*. | | | |
| ,, ,, water *only*. | | | |
| where the capital to be raised does not exceed 25,000*l*. | 54 | 0 | 0 |
| exceeds 25,000*l*. and does not exceed 50,000*l*. | 81 | 0 | 0 |
| exceeds 50,000*l*. and does not exceed 200,000*l*. | 108 | 0 | 0 |
| exceeds 200,000*l*. | 135 | 0 | 0 |
| Other bills where the capital to be raised does not exceed 25,000*l*. | 81 | 0 | 0 |
| exceeds 25,000*l*. and does not exceed 200,000*l*. | 108 | 0 | 0 |
| exceeds 200,000*l*. | 135 | 0 | 0 |
| All other local bills | 81 | 0 | 0 |

| | £ | s. | d. |
|---|---|---|---|
| Every petition in favour or against a bill | 1 | 1 | 0 |
| ,, praying to be heard against a bill<br>,, in favour of a bill and praying to be heard against alteration therein | 2 | 0 | 0 |
| For the first or first and second days on which an agent only appears in support of a petition | 3 | 1 | 0 |
| For every subsequent day | 1 | 0 | 0 |
| For the first day on which counsel appear in support of a petition | 10 | 15 | 0* |
| For the second day | 3 | 10 | 0† |
| For every subsequent day | 4 | 10 | 0‡ |
| Order for attendance of witnesses, each witness | 1 | 1 | 0 |
| Every witness to whom an oath or affirmation is administered at the bar of the House | 1 | 6 | 0 |
| Every witness to whom an oath or affirmation is administered before a committee | 0 | 2 | 0 |

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| | £ | s. | d. |
|---|---|---|---|
| Petition for additional provision | 5 | 0 | 0 |
| Certificate of examiner thereon | 5 | 0 | 0 |
| Order thereon | 1 | 1 | 0 |
| Standing Orders Committee | 4 | 15 | 0 |
| Report of said committee | 2 | 2 | 0 |

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| | £ | s. | d. |
|---|---|---|---|
| Commitment of an unopposed bill | 1 | 1 | 0 |
| ,, ,, opposed bill, committee to be proposed by Committee of Selection | 2 | 2 | 0 |
| Report of Committee of Selection | 1 | 1 | 0 |
| Order for committee on opposed bill to meet | 1 | 1 | 0 |
| Order giving leave for counsel to be heard before a committee | 1 | 1 | 0 |
| For the first day on which counsel appear in support of bill | 7 | 14 | 0* |
| For every subsequent day | 3 | 10 | 0† |
| Committee on any personal bill in division marked A. | 2 | 15 | 0 |
| ,, on any other bill | 4 | 15 | 0 |

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| | £ | s. | d. |
|---|---|---|---|
| Estate bill reported with amendment on the day on which committee has met | 3 | 3 | 0 |
| ,, on a subsequent day | 2 | 2 | 0 |
| ,, specially reported on day on which committee has met — with amendment | 5 | 5 | 0 |
| ,, specially reported on day on which committee has met — without ,, | 2 | 2 | 0 |
| ,, on a subsequent day — with amendment | 3 | 3 | 0 |
| ,, on a subsequent day — without ,, | 1 | 1 | 0 |
| Any other bill reported with amendment on day on which committee has met | 2 | 2 | 0 |
| on a subsequent day | 1 | 1 | 0 |
| ,, specially reported on day on which committee has met — with amendment | 4 | 4 | 0 |
| ,, specially reported on day on which committee has met — without ,, | 2 | 2 | 0 |
| ,, on a subsequent day — with amendment | 2 | 2 | 0 |
| ,, on a subsequent day — without ,, | 1 | 1 | 0 |
| Report, bill not to proceed | 1 | 1 | 0 |
| Order on report that promoters do not intend to proceed further with bill | 1 | 1 | 0 |

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| | £ | s. | d. |
|---|---|---|---|
| Amendment of bill (H. C.) | 1 | 1 | 0 |
| Copy of amendments | 0 | 5 | 0 |
| Notice of third reading | 0 | 10 | 6 |
| THIRD READING: | | | |
| Bill (H. L.) containing not more than 20 pages of print | 10 | 0 | 0 |
| ,, containing more than 20 pages | 15 | 0 | 0 |
| Bill containing Evidence Clause, 2s. per folio of 72 words, with 15s. added. | | | |
| Amendment on third reading | 1 | 1 | 0 |
| Producing before a committee of the House of Commons on a bill any document in the custody of this House | 1 | 1 | 0 |

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| * | £ | s. | d. |
|---|---|---|---|
| Bar fee | 3 | 10 | 0 |
| Attendance | 4 | 4 | 0 |
| Committee | 3 | 1 | 0 |

† Bar fee.

| ‡ | £ | s. | d. |
|---|---|---|---|
| Bar fee | 3 | 10 | 0 |
| Committee | 1 | 0 | 0 |

## Provisional Order Confirmation Bill.

(No fees are charged to promoters.)

The same fees are charged to petitioners against such bills as are charged to petitioners against local bills.

### General Fees.

| | £ | s. | d. |
|---|---|---|---|
| Inspection of a plan or other document | 0 | 5 | 0 |
| Copy of document—one side | 0 | 5 | 0 |
| Not exceeding three sides | 0 | 10 | 6 |
| ,, five ,, | 1 | 1 | 0 |
| ,, seven ,, | 1 | 11 | 6 |
| For every side over seven, per side | 0 | 3 | 0 |
| Copy certified by the Clerk of the Parliaments | 1 | 1 | 0 |
| in addition to the above. | | | |

### Fees on Taxation.

| | | | |
|---|---|---|---|
| For every application or reference to the taxing officer of the House of Lords, for the taxation of a bill of costs | 1 | 0 | 0 |
| 1*l*. per cent. upon the amount of the bill as sent in for taxation. | | | |
| On the deposit of every memorial complaining of a report of the taxing officer | 1 | 0 | 0 |
| For every certificate which shall be signed by the Clerk of the Parliaments | 1 | 0 | 0 |
| For copies of any documents in the office of the taxing officer, per folio of 72 words | 0 | 1 | 0 |

Henry Graham,
*Cler. Parliamentor.*

# STANDING ORDERS OF THE HOUSE OF COMMONS FOR THE SESSION OF 1889,

AND

# SCHEDULE OF FEES.

PART I.



PART II.



PART III.



PART IV.



PART V.



## PART I.

### THE TWO CLASSES OF PRIVATE BILLS.

Private bills divided into two classes

1. FOR the purposes of the Standing Orders of this House, all private bills to which the Standing Orders are applicable shall be divided into the two following classes, according to the subjects to which they respectively relate :—

1st Class.—Burial ground, making, maintaining or altering; charters and corporations, enlarging or altering powers of; church or chapel, building, enlarging, repairing or maintaining; city or town, paving, lighting, watching, cleansing or improving; company, incorporating, regulating, or giving powers to; county rate; county or shire hall, court house; Crown, church, or corporation property, or property held in trust for public or charitable purposes; ferry, where no work is to be executed; fishery, making, maintaining or improving; gaol or house of correction; gaswork; land, inclosing, draining or improving; letters patent, confirming, prolonging, or transferring; local court, constituting; market or market-place, erecting, improving, repairing, maintaining or regulating; police; poor, maintaining or employing; poor rate; powers to sue and be sued, conferring; stipendiary magistrate, or any public officer, payment of; and continuing or amending an act passed for any of the purposes included in this or the second class, where no further work than such as was authorised by a former act is proposed to be made. 1st Class.

2nd Class.—Making, maintaining, varying, extending or enlarging any aqueduct, archway, bridge, canal, cut, dock, drainage—where it is not provided in the bill that the cut shall not be more than eleven feet wide at the bottom, embankment for reclaiming land from the sea or any tidal river, ferry where any work is to be executed, harbour, navigation, pier, port, RAILWAY, reservoir, sewer, street, subway to be used for the conveyance of passengers, animals, or goods in carriages or trucks drawn or propelled on rails, tramway by which term, as used in these orders, is meant a tramway to be laid along a street or road, "tramroad," by which term, as used in these orders, is meant any tramway other than a tramway to be laid along a street or road, tunnel, turnpike or other public carriage road, waterwork. Railway, &c., class.

## Appointment of Examiners.

2. There shall be one or more officers of this House, to be called "The Examiners of Petitions for Private Bills," who shall be appointed by Mr. Speaker. Examiners of petitions.

## Part II.

## Standing Orders, Compliance with which is to be Proved before the Examiners.

[See vol. I. ch. I.]

[In these orders (3 to 68 inclusive), unless the context otherwise requires, the term "railway" includes "tramroad," and the term "occupier" applies only to ratepayers, and to other persons not being ratepayers, whose interest in the premises occupied is not less than that of a quarterly tenant.]

Compliance with the following Standing Orders shall be proved before one of the examiners; viz.—

1. *Notices by Advertisement.*

Notices to state objects of application when bills will be deposited in Private Bill Office, and intention to seek for powers to purchase lands, or to amalgamate, &c., or to levy or alter tolls, to be stated, and also the companies, &c., with whom any amalgamation, &c., is proposed.

3. In all cases where application is intended to be made for leave to bring in a bill relating to any of the subjects included in either of the two classes of private bills, notice shall be given stating the objects of such intended application, and the time at which copies of the bill will be deposited in the private bill office; and if it be intended to apply for powers for the compulsory purchase of lands or houses, or for extending the time granted by any former act for that purpose, or to amalgamate with any other company, or to sell or lease the undertaking, or to purchase or take on lease the undertaking of any other company, or to enter into working agreements or traffic arrangements, or to dissolve any company or to amend or repeal any former act or acts, or to levy any tolls, rates or duties, or to alter any existing tolls, rates or duties, or to confer, vary or extinguish any exemptions from payment of tolls, rates or duties, or to confer, vary or extinguish any other rights or privileges, the notice shall specify such intention, and shall also specify the company, person, or persons with, to, from, or by whom it is intended to be proposed that such amalgamation, sale, purchase, lease, working agreements, or traffic arrangements shall be made; and the whole of the notice relating to the same bill shall, except as provided by Standing Order 9, be included in the same advertisement, which shall be headed by a short title, descriptive of the undertaking or bill, and shall be subscribed with the name and address of the person, company, corporation, or firm responsible for the publication of the notice.

[See vol. I. ch. 1.]

In second class bills, notices to contain names of parishes, &c.

4. In cases of bills included in the second class, and of bills of the first class, in respect to which plans are required to be deposited, such notices shall also contain a description of all the termini, together with the names of the parishes, townships, townlands and extra-parochial places from, in, through or into which the work is intended to be made, maintained, varied, extended or enlarged, or in which any land or houses intended to be taken are situate, and where any common or commonable land is intended to be taken, such notice shall contain the name of such common or commonable land (if any), and the name of any parish or township in which such land is situate, together with an estimate of the quantity of such common or commonable land proposed to be taken, and shall state the time and place of deposit of the plans, sections, books of reference and copies of the Gazette notice respectively, with the clerks of the peace, sheriff clerks, parish clerks, clerks of vestries or district boards, session clerks, town clerks and clerks of unions, as the case may be.

[5, 6*b*. Burial grounds, tramways, &c.]

*Cuts, Canals, Navigations, &c.*

When it is intended to divert water from an existing cut, &c.

7. In all cases where it is proposed to divert into any existing or intended cut, canal, reservoir, aqueduct or navigation, or into any intended variation, extension or enlargement thereof respectively, any water from any existing cut, canal, reservoir, aqueduct or navigation, whether the water is to be abstracted directly or indirectly from any such cut, canal, reservoir, aqueduct or navigation, or from any feeder thereof, and whether under any agreement with the proprietors thereof or otherwise, the notices shall contain the name of every such last mentioned cut, canal, reservoir, aqueduct or navigation.

[8. Letters patent.]

Publication of notices in *Gazettes* and newspapers.

9. In the months of October and November, or either of them, immediately preceding the application for a bill, the notice shall be published once in the London, Edinburgh, and Dublin Gazette, as the case may be, and in the following newspapers, namely :—

(1.) In the case of a bill relating specially to any particular city, borough, town, or urban sanitary district, the notice shall be published once

in each of two successive weeks, with an interval between such publications of not less than six clear days, in some one and the same newspaper published in such city, borough, town, or district, or if there be no newspaper published therein, then in some one and the same newspaper published in the county in which such city, borough, town, or district, or any part thereof is situate:

(2.) In the case of a bill authorising the construction of works or the taking of lands, or extending the time granted by a former act for the construction of works or taking of lands, situate in one county only, or relating to an undertaking situate in one county only, or promoted by a company or companies or other parties possessed of an undertaking situate in one county only, the notice shall be published once in each of two successive weeks, with an interval between such publications of not less than six clear days, in some one and the same newspaper published in that county, or if there be no newspaper published therein, then in some one and the same newspaper published in some county adjoining or near thereto:

(3.) In the case of a bill authorising the construction of works or the taking of lands, or extending the time granted by a former act for the construction of works or the taking of lands, in more than one county, or relating to an undertaking situate in more than one county, or promoted by a company or companies or other parties possessed of an undertaking situate in more than one county, the notice shall be published once in each of two successive weeks, with an interval between such publications of not less than six clear days, in some one and the same newspaper, published at least six days in the week in London, Edinburgh, or Dublin, as the case may be, and in some one and the same newspaper of the county in which the principal office of the company or companies or other parties who are the promoters of the bill is situate, and in some one and the same newspaper published in each county in which any new works are proposed to be constructed, or in which any lands are intended to be taken, or in which any works or lands are situate, in respect of which any new or further powers for the completion or taking thereof are intended to be applied for, or if there be no newspaper published therein, then in some one and the same newspaper published in some county adjoining or near thereto: Provided always, That, if the bill relates to lands or works, situate in more than one county, it shall be sufficient (at the option of the promoters) to publish in each of such counties so much only of the notice as relates specifically to the lands or works situate in that county, together with the short title of the notice and an intimation that the notice has been published in full or sent for publication in full in the Gazette:

(4.) No publication under this order shall be made after the 27th day of November.

*Street Tramways.*

Notices to be posted in street.

10. In the months of October and November, or one of them, immediately preceding the application for any bill for laying down a tramway, or constructing an underground railway or subway, notice thereof shall be posted for fourteen consecutive days in every street along or under which it is proposed to lay the tramway, or construct the railway or subway, in such manner as the authority having the control of such street shall direct, and if after such application to such authority no such direction shall be given, then in some conspicuous position in every such street, and such

notice shall also state the place or places at which the plans of such tramway, railway, or subway, will be deposited.

2. *Notices and Applications to Owners, Lessees and Occupiers of Lands and Houses.*

Application to owners, &c., on or before 15th December.

11. On or before the fifteenth day of December immediately preceding the application for a bill by which any lands or houses are intended to be taken, or an extension of the time granted by any former act for that purpose is sought, application in writing shall be made to the owners or reputed owners, lessees or reputed lessees, and occupiers of all lands and houses so intended to be taken, or which may be taken as being within the limits of deviation defined upon the plan; and in cases of bills included in the second class, such application shall be, as nearly as may be, in the form set forth in the appendix marked (A.).

[See p. 531.]

Lists of owners, &c., assenting, dissenting, and neuter.

12. Separate lists shall be made of the names of such owners, lessees and occupiers, distinguishing those who have assented, dissented or are neuter in respect to such application, or who have returned no answer thereto; and where no written acknowledgment has been returned to an application forwarded by post, or where such application has been returned as undelivered at any time before the making up of such lists, the direction of the letter in which the same was so forwarded shall be inserted therein.

Notice to frontagers in case of tramways.

13. On or before the fifteenth day of December immediately preceding the application for a bill for the laying down a tramway, notice in writing shall be given to the owners or reputed owners, lessees or reputed lessees, and occupiers of all houses, shops, or warehouses abutting upon any part of any street or road where, for a distance of thirty feet or upwards, it is proposed that a less space than nine feet six inches shall intervene between the outside of the footpath on either side of the road and the nearest rail of the tramway, or a less space than ten feet six inches, if it is intended to run on the tramway carriages or trucks adapted for use upon railways.

Notice to owners and lessees of railways, tramways, or canals, crossed, affected, or interfered with, by proposed tramway.

On or before the fifteenth day of December immediately preceding the application for any bill for laying down a tramway crossing any railway or tramway on the level, or crossing any railway, tramway, or canal by means of a bridge, or otherwise affecting or interfering with such railway, tramway, or canal, notice in writing of such application shall be served upon the owner or reputed owner, and upon the lessee or reputed lessee of such railway, tramway, or canal, and such notice shall state the place or places at which the plans of the tramway to be authorised by such bill have been or will be deposited.

Notices when it is proposed to abstract water from any stream.

14. On or before the fifteenth day of December immediately preceding the application for a bill, whereby it is proposed to abstract water from any stream for the purpose of supplying any cut, canal, reservoir, aqueduct, navigation, or waterwork, notice in writing of such bill shall be given to the owners or reputed owners, lessees or reputed lessees, and occupiers of all mills and manufactories or other works using the waters of such stream for a distance of twenty miles below the point at which such water is intended to be abstracted, such distance to be measured along the course of such stream, unless such waters shall, within a less distance than twenty miles, fall into or unite with any navigable stream, and then only to the owners or reputed owners, lessees or reputed lessees, and occupiers of such mills and manufactories, or other works as aforesaid, which shall be situate between the point at which such water is proposed to be abstracted, and the point at which such water shall fall into or unite with such navigable stream; and such notice shall state the name (if any) by which the stream is known at the point at which such water shall be immediately abstracted, and also the

parish in which such point is situate, and the time and place of deposit of plans, sections, and books of reference and copies of the Gazette notice respectively with the clerks of the peace and sheriff clerks, as the case may be.

[15. Burial grounds and gasworks.]

*Relinquishment of Works.*

Notice to owners, &c., when the bill is to abridge any public works.

16. On or before the fifteenth day of December immediately preceding the application for a bill whereby the whole or any part of a work authorised by any former act is intended to be relinquished, notice in writing of such bill shall be served upon the owners or reputed owners, lessees or reputed lessees, and occupiers of the lands in which any part of the said work intended to be thereby relinquished is situate.

Notice to owners, &c., in cases of alteration or repeal of provisions.

17. On or before the twenty-first day of December immediately preceding the application for a bill, whereby any express statutory provision then in force for the protection of the owner, lessee, or occupier of any property, or for the protection or benefit of any public trustees or commissioners, corporation or person, specifically named in such provision, is sought to be altered or repealed, notice in writing of such bill, and of the intention to alter or repeal such provision, shall be served upon every such owner, lessee, or occupier, public trustees or commissioners, corporation or person.

Notice in case of application for compulsory running powers.

18. On or before the twenty-first day of December immediately preceding the application for a bill whereby any compulsory running powers are proposed to be taken over any railway, notice in writing of such bill, and of the intention to apply for such running powers, shall be served upon every company owning or working such railway.

How application to be made, and notices served.

19. All applications shall be made, and notices served, either by delivering the same personally to the party entitled to such application or notice, or by leaving the same at his usual place of abode, or, in his absence from the United Kingdom, with his agent, or by forwarding the same by post in a registered letter, addressed with a sufficient direction to his usual place of abode, and posted on or before the third day previously to the day required for delivery of the same personally, at such places, at such hours and according to such regulations as the Postmaster General shall from time to time appoint, for the posting and registration of such letters, and shall be accompanied by a copy of the standing orders which regulate the time and mode of presenting petitions in opposition to bills.

Written acknowledgment of party applied to, and in case of application or notice by post, post office receipt sufficient evidence of application.

20. In all cases the written acknowledgment of the party applied to shall, in the absence of other proof, be sufficient evidence of such application having been made, or notice given; and in case of an application or notice having been forwarded by post, in a registered letter, the production of the Post Office receipt for such letter, duly stamped, in such form as the Postmaster General shall have appointed, shall be sufficient evidence of the due delivery of such letter; Provided it shall appear that the same was properly and sufficiently directed, and that the same was not returned to the Post Office as undelivered.

Notices not to be given on Sunday, &c.

21. No notice served or application made on a Sunday or Christmas Day, or before eight o'clock in the forenoon, or after eight o'clock in the afternoon of any day, shall be deemed valid, except in the case of a delivery of letters by post.

[22. Consents in case of tramways bill.]

### 3. *Documents required to be deposited, and the Times and Places of Deposit.*

Deposit not to be made on Sunday, &c.

23. No deposit required by the following orders shall be deemed valid if made on a Sunday or Christmas Day, or before eight o'clock in the forenoon, or after eight o'clock in the afternoon of any day.

*Deposits on or before the 30th November.*

Plans and books of reference, and sections, to be deposited with clerk of the peace, &c.

24. In cases of bills of the second class, a plan and also a duplicate thereof, together with a book of reference thereto, and a section and also a duplicate thereof, as hereinafter described, and in cases of bills of the first class, by which any lands or houses are intended to be taken, a plan and duplicate thereof together with a book of reference thereto, shall be deposited for public inspection at the office of the clerk of the peace for every county, riding, or division in England or Ireland, or in the office of the principal sheriff clerk of every county in Scotland, and where any county in Scotland is divided into districts or divisions, then also in the office of the principal sheriff clerk in or for each district or division, in or through which the work is proposed to be made, maintained, varied, extended, or enlarged, or in which such lands or houses are situate, on or before the 30th day of November immediately preceding the application for the bill; and in the case of railway bills, the ordnance map, on the scale of one inch to a mile, or where there is no ordnance map, a published map, to a scale of not less than half an inch to a mile (or in Ireland, to a scale of not less than a quarter of an inch to a mile), with the line of railway delineated thereon, so as to show its general course and direction, shall be deposited with such plans, sections and book of reference; and the clerks of the peace or sheriff clerks, or their respective deputies, shall make a memorial in writing upon the plans, sections and books of reference so deposited with them, denoting the time at which the same were lodged in their respective offices, and shall at all seasonable hours of the day permit any person to view and examine one of the same, and to make copies or extracts therefrom; and one of the two plans and sections so deposited shall be sealed up and retained in the possession of the clerk of the peace or sheriff clerk until called for by order of one of the two Houses of Parliament. In cases of bills whereby it is proposed to alter or extend the municipal boundary of any city, borough, or urban sanitary district, a map on a scale of not less than three inches to a mile, and also a duplicate thereof, showing as well the present boundaries of the city, borough, or urban sanitary district as the boundaries of the proposed extension, shall be deposited with the town clerk of such city or borough, or clerk of such urban sanitary district, who shall at all seasonable hours of the day permit any person to view and examine such map, and to make copies thereof.

In cases of railways, Ordnance or published map, to be deposited with clerk of peace, &c.

Clerks of peace to indorse a memorial on plans, &c.

In case of proposed alteration or extension of municipal boundaries, map and duplicate to be deposited with town clerk, &c.

Deposit of plans, &c., in Private Bill Office.

25. On or before the 30th day of November a copy of the said plans, sections and books of reference, and in the case of railway bills, also a copy of the said ordnance or published map, with the line of railway delineated thereon, shall be deposited in the Private Bill Office of this House.

Deposit of tramway map at the office of Board of Trade.

25*a*. In the case of bills for laying down a tramway, a published map of the district on a scale of not less than six inches to a mile (or if no map on such a scale be published, then the best map obtainable), with the line of the proposed tramway marked thereon, and a diagram on a scale of not less than two inches to a mile, prepared in accordance with the specimen, to be obtained at the office of the Board of Trade, must also be deposited at that office on or before the 30th November.

When works on tidal lands, plans, sections, and map, to be deposited at the office of the Harbour Department, Board of Trade.

26. In cases where the work is to be situate on tidal lands within the ordinary spring tides, a copy of the plans and sections shall, on or before the 30th day of November immediately preceding the application for the bill, be deposited at the office of the Harbour Department, Board of Trade, marked "Tidal Waters," and on such copy all tidal waters shall be coloured blue, and if the plans include any bridge across tidal waters, the dimensions, as regards span and headway of the nearest bridges, if any, across the same tidal waters above and below the proposed new bridge, shall be marked

thereon; and in all such cases, such plans and sections shall be accompanied by an ordnance or published map of the country over which the works are proposed to extend, or are to be carried, with their position and extent, or route accurately laid down thereon.

26*a*. And, in cases where the work is to be situate on the banks, foreshore, or bed of any river having a board of conservators constituted by Act of Parliament, a copy of the plans and sections shall, on or before the 30th day of November immediately preceding the application for the bill, be deposited at the office of the conservators of the river, and if the plans include any tunnel under or bridge over the river, the dimensions as regards depth below bed of the river, and span and headway, shall be marked thereon; and such plans shall be accompanied by an ordnance or published map of the country over which the works are proposed to extend or are to be carried, with their position and extent or route accurately laid down thereon. When works on banks, &c., of any river, plans, sections, and map to be deposited at the office of the Conservators of the river.

27. In the case of railway, tramway, subway, and canal bills, a copy of all plans, sections, and books of reference, required to be deposited in the office of any clerk of the peace or sheriff clerk, on or before the 30th day of November immediately preceding the application for the bill (and in the case of railway bills also a copy of the said ordnance or published map, with the line of railway delineated thereon), shall on or before the same day be deposited in the office of the Board of Trade. Deposit of plans, &c., at the office of the Board of Trade.

28. In cases where any portion of the work shall be situate within the limits of the metropolis, as defined by the "Metropolis Management Act, 1855," a copy of so much of the plans and sections as relates to such portion of the work shall, on or before the 30th day of November, be deposited at the office of the Metropolitan Board of Works. Deposit of plans and sections with Metropolitan Board of Works.

29. On or before the 30th day of November, a copy of so much of the said plans and sections as relates to each parish in or through which the work is intended to be made, maintained, varied, extended or enlarged, or in which any lands or houses, intended to be taken, are situate, together with a copy of so much of the book of reference as relates to such parish, shall be deposited with the parish clerk of each such parish in England, or, in the case of any extra-parochial place, with the parish clerk of some parish immediately adjoining thereto, or in case of any place within the limits of the metropolis, as defined by the "Metropolis Management Act, 1855," with the clerk of the vestry of each parish in Schedule A., and with the clerk of the district board of parishes in schedule B. of the said act; with the session clerk of each such parish in Scotland, and in royal burghs with the town clerk, and with the clerk of the union within which such parish is included in Ireland. Deposit of parish plan, section and book of reference, with parish clerk, &c.

29*a*. On or before the 30th day of November, a copy of so much of the said plans and sections as relates to the district of any urban sanitary authority in England or Ireland, in or through which the work is intended to be made, maintained, varied, extended, or enlarged, or in which any lands or houses intended to be taken are situate, together with a copy of so much of the book of reference as relates to that district, shall be deposited with the clerk of that sanitary authority. Deposit of plans and sections with clerk of sanitary authority.

[30. Burial grounds.]

31. Wherever any plans, sections and books of reference, or parts thereof, are required to be deposited, a copy of the notice published in the *Gazette* of the intended application to Parliament shall be deposited therewith. *Gazette* notice to be deposited with plans, &c.

*Deposits on or before the 21st December.*

Petition for bill, &c., to be deposited in Private Bill Office.

32. Every petition for a private bill, headed by a short title descriptive of the undertaking or bill, corresponding with that at the head of the advertisement, with a declaration, signed by the agent, and a printed copy of the bill annexed, shall be deposited in the Private Bill Office on or before the 21st day of December; and such petition, bill and declaration shall be open to the inspection of all parties; and printed copies of the bill shall also be delivered therewith for the use of any member of the House or agent who may apply for the same. Such declaration shall state to which of the two classes of bills such bill in the judgment of the agent belongs; and if the proposed bill shall give power to effect any of the following objects; that is to say:—

Declaration of agent as to class of bill, and powers thereof, to be annexed to petition.

Power to take any lands or houses compulsorily, or to extend the time granted by any former act for that purpose:

Power to levy tolls, rates or duties, or to alter any existing tolls, rates or duties; or to confer, vary or extinguish any exemption from payment of tolls, rates or duties, or to confer, vary or extinguish any other right or privilege:

Power to amalgamate with any other company, or to sell or lease their undertaking, or to purchase or take on lease the undertaking of any other company:

Power to interfere with any crown, church or corporation property, or property held in trust for public or charitable purposes:

Power to relinquish any part of a work authorised by a former act:

Power to divert into any existing or intended cut, canal, reservoir, aqueduct or navigation, or into any intended variation, extension or enlargement thereof respectively, any water from any existing cut, canal, reservoir, aqueduct or navigation, whether directly or derivatively, and whether under any agreement with the proprietors thereof, or otherwise:

Power to make, vary, extend or enlarge any cut, canal, reservoir, aqueduct or navigation:

Power to make, vary, extend or enlarge any railway.

The said declaration shall state which of such powers are given by the bill, and shall indicate in which clauses of the bill (referring to them by their number) such powers are given, and shall further state that the bill does not give power to effect any of the objects enumerated in this order, other than those stated in the declaration.

If the proposed bill shall not give power to effect any of the objects enumerated in the preceding order, the said declaration shall state that the bill does not give power to effect any of such objects.

The said declaration shall also state that the bill does not give any powers other than those included in the notices for the bill.

Deposit of private bills at Treasury and other public departments.

33. On or before the 21st day of December, a printed copy of every private bill shall be deposited at the office of Her Majesty's Treasury and at the General Post Office; a printed copy of every bill relating to railways, tramways, subways, canals, gas, water, patents, or electric lighting, or for incorporating or giving powers to any company, shall be deposited at the office of the Board of Trade; a printed copy of every bill relating to any dock, harbour, navigation, pier or port, shall be deposited at the office of the Harbour Department of the Board of Trade, marked "tidal waters"; a printed copy of every bill containing provisions with respect to the use of weights and measures, or the inspection or verification of the same, shall be deposited at the Standard Department of the Board of Trade; a printed copy of every bill relating to a local court, stipendiary magistrate, and of

every bill whereby power is sought to take any churchyard, burial ground, or cemetery, or any part thereof, or to disturb the bodies interred therein, at the office of the Secretary of State for the Home Department, a printed copy of every bill relating to any company, body or person carrying on business in any colony or British possession at the office of the Secretary of State for the Colonies; a printed copy of every bill relating to Scotland, at the office of the Secretary for Scotland; a printed copy of every bill relating to any matter in England or Wales within the jurisdiction of the Local Government Board, at the office of that board; a printed copy of every private bill whereby the boundaries of any school district or the jurisdiction of any school board are affected at the office of the Education Department; a printed copy of every bill affecting crown property at the office of Commissioners of her Majesty's Works and Public Buildings, and at the office of her Majesty's Woods and Forests, and Land Revenues; and a printed copy of every bill affecting the Duchy of Cornwall or the Duchy of Lancaster at the office of such Duchy respectively.

Deposit of bills with the Home Department.

33*a*. On or before the 21st day of December, a printed copy of every private bill promoted by municipal or other local authorities, by which it is proposed to create powers relating to police or sanitary regulations which deviate from, or are in extension of, or repugnant to, the general law, shall be deposited at the office of the Secretary of State for the Home Department.

Deposit of bills with the Metropolitan Board of Works.

34. On or before the 21st day of December, a printed copy of every bill of the second class, whereby any work shall be authorized within the limits of the metropolis, as defined by "The Metropolis Management Act, 1855," shall be deposited at the office of the Metropolitan Board of Works.

Deposit of bills with the Conservators of Rivers.

34*a*. On or before the 21st day of December, a printed copy of every bill of the second class, whereby it is intended to authorize the construction of any work on the banks, foreshore, or bed of any river having a board of conservators constituted by act of Parliament, shall be deposited at the office of the conservators of the river.

*Deposits on or before the 31st of December.*

Deposit of estimates, &c., in Private Bill Office.

35. All estimates and declarations, and lists of owners, lessees and occupiers, which are required by the Standing Orders of the House shall be deposited in the Private Bill Office on or before the 31st day of December.

Documents to be deposited in Private Bill Office in regard to joint stock companies bills.

35*a*. As respects all bills for the incorporation of joint stock companies, or proposed companies for carrying on any trade or business, or for conferring upon such companies the power of suing and being sued, there shall be deposited in the Private Bill Office, on or before 31st December, a copy of the deed or agreement of partnership (if any) under which the company or proposed company is acting, and in all cases a declaration stating the following matters:—

1st.—The present and proposed amount of the capital of the company.
2nd.—The number of shares, and the amount of each share.
3rd.—The number of shares subscribed for.
4th.—The amount of subscriptions paid up.
5th.—The names, residences and descriptions of the shareholders or subscribers (so far as the same can be made out), and of the actual or provisional directors, treasurers, secretaries or other officer, if any.

And such documents shall be verified by the signature of some authorized officer of the company or proposed company (if any), and by some responsible party promoting the bill; and copies of such declarations shall be printed at the expense of the promoters of the bill, and delivered at the Vote

Office for the use of the members of the House, and at the Private Bill Office for the use of any agent who may apply for the same.

Copies of estimate and declaration to be printed, and delivered in at Private Bill Office.

36. On or before 31st December, copies of the estimate of expense of the undertaking; and where a declaration alone, or declaration and estimate of the probable amount of rates and duties, are required, copies of such declaration, or of such declaration and estimate, shall be printed at the expense of the promoters of the bill, and delivered at the Vote Office for the use of the members of the House, and at the Private Bill Office for the use of any agent who may apply for the same.

Form of estimate.

37. The estimate for any works proposed to be authorized by any railway, tramway, subway, canal, dock, or harbour bill, shall be in the following form, or as near thereto as circumstances may permit:—

ESTIMATE OF THE PROPOSED ——— (RAILWAY).

Line, No. .

| | *Miles.* | *fgs.* | *chs.* | Whether Single or Double. |
|---|---|---|---|---|
| Length of Line . . . . . . | | | | |

| | *Cubic Yds.* | *Price per Yd.* | £ *s.* *d.* | £ *s.* *d.* |
|---|---|---|---|---|
| Earthworks: | | | | |
| Cuttings—Rock . . . | | | | |
| Soft Soil . . | | | | |
| Roads . . . | | | | |
| TOTAL . . | | | | |

| | | £ *s.* *d.* |
|---|---|---|
| Embankments, including Roads . . . . . | *Cubic yds.* . . | |
| Bridges—Public Roads . . . . . . . . . | *Number* . . | |
| Accommodation Bridges and Works . . . . . . . . . | | |
| Viaducts . . . . . . . . . . . . . . . . | | |
| Culverts and Drains . . . . . . . . . . . . . | | |
| Metallings of roads and level crossings . . . . . . . . . | | |
| Gatekeepers' houses at level crossings . . . . . . . . . | | |
| Permanent Way, including Fencing: | | |
| *Miles.* *fgs.* *chs.* at | *Cost per Mile.* £ *s.* *d.* | |
| Permanent way for sidings, and cost of junctions . . . . . . | | |
| Stations . . . . . . . . . . . . . . . . | | |
| Contingencies . . . . . . . . . . . . | per cent. | |
| Land and Buildings: A. R. P. | | |
| TOTAL . . . £ | | |

The same details for each branch, and general summary of total cost.

Statement relating to houses inhabited by labouring classes to be deposited in Private Bill Office and office of central authority.

38. In the case of any bill which contains power to take compulsorily or by agreement, in any parish in the metropolis, twenty or more houses, or as regards England and Wales, exclusive of the metropolis, in any city, borough, or other urban sanitary district, or in any parish or part of a parish not being within an urban sanitary district, or in Scotland in any district within the meaning of "The Public Health (Scotland) Act, 1867," or in Ireland in any urban sanitary district as defined by "The Public Health

(Ireland) Act, 1878," ten or more houses, occupied wholly or partially by persons belonging to the labouring class, as defined by Order 183*a*, as tenants or lodgers, or which revives or extends any such power, the promoters shall deposit in the Private Bill Office, and at the office of the central authority, as defined in Order 183*a*, on or before the 31st day of December, a statement of the number, description, and situation of such houses, the number (so far as can be ascertained) of persons residing therein, and a copy of so much of the plan (if any) as relates thereto; this Standing Order shall not apply where a statement in pursuance of this Standing Order was deposited in respect of the act the powers of which are proposed to be revived or extended. [See also Standing Order, 183*a*.]

39. Whenever plans, sections, or books of reference are deposited in the case of an application to any public department, for a provisional order or provisional certificate, duplicates of the said documents shall at the same time be deposited in the Private Bill Office; provided that with regard to such deposits as are so made at any public department after the prorogation of Parliament, and before the 30th day of November in any year, such duplicates shall be so deposited on the 30th day of November. *Deposit of plans &c., in case of provisional orders in Private Bill Office.*

### 4. *Form in which Plans, Books of Reference, Sections and Cross Sections are to be prepared.*

#### *Plans.*

40. Every plan required to be deposited shall be drawn to a scale of not less than *four* inches to a mile, and in the case of bills of the first class, shall describe the lands intended to be taken, and in the case of bills of the second class, shall describe the line or situation of the whole of the work (no alternative line of work being in any case permitted), and the lands in or through which it is to be made, maintained, varied, or extended or enlarged, or through which any communication to or from the work shall be made; and where it is the intention of the promoters to apply for powers to make any lateral deviation from the line of the proposed work, the limits of such deviation shall be defined upon the plan, and all lands included within such limits shall be marked thereon; and unless the whole of such plan shall be upon a scale of not less than a *quarter* of an *inch* to every 100 feet, an enlarged plan shall be added of any building, yard, court-yard or land within the curtilage of any building, or of any ground cultivated as a garden, either in the line of the proposed work, or included within the limits of the said deviation, upon a scale of not less than a *quarter* of an *inch* to every 100 feet. *Description plans.* *Lands within deviation to be on plan.* *Buildings, &c., on enlarged scale.*

41. In all cases where it is proposed to make, vary, extend or enlarge any cut, canal, reservoir, aqueduct or navigation, the plan shall describe the brooks and streams to be directly diverted into such intended cut, canal, reservoir, aqueduct or navigation, or into any variation, extension or enlargement thereof respectively, for supplying the same with water. *In case of cut, canals, &c., plan to describe brooks, &c., to be diverted.*

42. In all cases where it is proposed to make, vary, extend, or enlarge any railway, the plan shall exhibit thereon the distances in miles and furlongs, from one of the termini; and a memorandum of the radius of every curve not exceeding one mile in length shall be noted on the plan in furlongs and chains; and where tunnelling as a substitute for open cutting is intended, the same shall be marked by a dotted line on the plan, and no work shall be shown as tunnelling, in the making of which it will be necessary to cut through or remove the surface soil. *In case of railways, distances to be marked in miles and furlongs, and memorandum of curves and tunnelling.*

43. If it be intended to divert, widen or narrow any turnpike road, public carriage road, navigable river, canal or railway, the course of such diversion, *Diversion of roads, &c., to be shown.*

and the extent of such widening or narrowing, shall be marked upon the plan.

In case of junctions, course of existing line to be shown on deposited plan.

44. When a railway is intended to form a junction with an existing or authorized line of railway, the course of such existing or authorized line of railway shall be shown on the deposited plan for a distance of 800 yards on either side of the proposed junction, on the same scale as the scale of the general plan.

[45 and 45*a*. Plans in the case of street tramway bills.]

*Book of Reference.*

Contents of book of reference.

46. The book of reference shall contain the names of the owners or reputed owners, lessees or reputed lessees and occupiers of all lands and houses in the line of the proposed work, or within the limits of deviation as defined upon the plan, and shall describe such lands and houses respectively.

*Sections.*

Section.

47. The section shall be drawn to the same horizontal scale as the plan, and to a vertical scale of not less than one inch to every 100 feet, and shall show the surface of the ground marked on the plan, the intended level of the proposed work, the height of every embankment and the depth of every cutting, and a datum horizontal line, which shall be the same throughout the whole length of the work, or any branch thereof respectively, and shall be referred to some fixed point (stated in writing on the section), near some portion of such work, and in the case of a canal, cut, navigation, turnpike or other carriage road or railway, near either of the termini.

Improvement, &c., of navigations.

48. In cases of bills for improving the navigation of any river, there shall be a section which shall specify the levels of both banks of such river; and where any alteration is intended to be made therein, it shall describe the same by feet and inches, or decimal parts of a foot.

Line of railway on section to correspond with upper surface of rails.

49. In every section of a railway, the line of the railway marked thereon shall correspond with the upper surface of the rails.

Vertical measures to be marked at change of gradient.

50. Distances on the datum line shall be marked in miles and furlongs to correspond with those on the plan; a vertical measure from the datum line to the line of the railway shall be marked in feet and inches, or decimal parts of a foot, at the commencement and termination of the railway, and at each change of the gradient or inclination thereof; and the proportion or rate of inclination between every two consecutive vertical measures shall also be marked.

Height of railway over or depth under surface of roads, &c., to be marked, and bridges and level crossings.

51. Wherever the line of the railway is intended to cross any turnpike-road, public carriage-road, navigable river, canal, or railway, the height of the railway over or depth under the surface thereof, and the height and span of every arch of all bridges and viaducts, by which the railway will be carried over the same, shall be marked in figures at every crossing thereof; and where the railway will be carried across any such turnpike-road, public carriage-road, or railway, on the level thereof, such crossing shall be so described on the section; and it shall also be stated if such level will be unaltered.

Cross sections of roads, &c., crossed by the railway when rates of inclination altered.

52. If any alteration be intended in the water level of any canal, or in the level or rate of inclination of any turnpike-road, public carriage-road or railway, which will be crossed by the line of railway, then the same shall be stated on the section, and each alteration shall be numbered; and cross sections, in reference to the numbers, on a horizontal scale of not less than one inch to every 330 feet, and on a vertical scale of not less than one inch to every 40 feet, shall be added, which shall show the present surface of such road, canal or railway, and the intended surface thereof when altered; and the

greatest of the present and intended rates of inclination of the portion of such road or railway intended to be altered shall also be marked in figures thereon; and where any turnpike-road or public carriage-road is crossed on the level, a cross section of such road shall also be added, and all such cross sections shall extend for 200 yards on each side of the centre line of the railway.

53. Wherever the extreme height of any embankment, or the extreme depth of any cutting shall exceed five feet, the extreme height over or depth under the surface of the ground shall be marked in figures upon the section; and if any bridge or viaduct of more than three arches shall intervene in any embankment, or if any tunnel shall intervene in any cutting, the extreme height or depth shall be marked in figures on each of the parts into which such embankment or cutting shall be divided by such bridge, viaduct or tunnel. Embankments and cuttings.

54. Where tunnelling, as a substitute for open cutting, or a viaduct as a substitute for solid embankment, is intended, the same shall be marked on the section, and no work shall be shown as tunnelling, in the making of which it will be necessary to cut through or remove the surface soil. Tunnelling and viaducts to be marked.

55. When a railway is intended to form a junction with an existing or authorized line of railway, the gradient of such existing or authorized line of railway shall be shown on the deposited section, and in connection therewith, and on the same scale as the general section, for a distance of 800 yards on either side of the point of junction. In case of junctions, gradient of existing line to be shown on deposited section.

5. *Estimates and Deposit of Money, and Declarations in certain cases.*

56. An estimate of the expense of the undertaking under each bill of the second class shall be made and signed by the person making the same. Estimate in bill of the second class.

57. In the case of a railway bill, tramway bill, or subway bill authorizing the construction of works by other than an existing railway company, tramway company, or subway company, incorporated by Act of Parliament, possessed of a railway, tramway, or subway already opened for public traffic, and which has during the last year paid dividends on its ordinary share capital, and which does not propose to raise under the bill a capital greater than its existing authorized capital, a sum not less than five per cent. on the amount of the estimate of expense, or in the case of substituted works, on the amount by which the expense thereof will exceed the expense of the works to be abandoned, and in the case of all bills other than railway bills, tramway bills, and subway bills, a sum not less than four per cent. on the amount of such estimate, or of such excess as aforesaid, shall, previously to the 15th day of January, be deposited with the paymaster-general for and on behalf of the Supreme Court of Judicature in England, if the work is intended to be done in England, or with the paymaster-general for and on behalf of the Supreme Court of Judicature in England, or with the Queen's and Lord Treasurer's Remembrancer on behalf of the Court of Exchequer in Scotland, if the work is intended to be done in Scotland, or with the Accountant-General of the Supreme Court of Judicature in Ireland, if the work is intended to be done in Ireland. Five per cent. or four per cent. of estimate to be deposited.

58. Where the work is to be made, wholly or in part, by means of funds, or out of money to be raised upon the credit of present surplus revenue, belonging to any society or company, or under the control of directors, trustees, or commissioners, as the case may be, of any existing public work, such parties being the promoters of the bill, a declaration stating those facts, and setting forth the nature of such control, and the nature and amount of such funds or surplus revenue, and showing the actual surplus of such funds or revenue, after deducting the funds required for purposes authorized by any act or acts of parliament, and also the funds which may be required for Cases in which delarations may be deposited in lieu of money.

any other work to be executed under any bill in the same session, and given under the common seal of the society or company, or under the hand of some authorized officer of such directors, trustees or commissioners, may be deposited, and in such case no deposit of money shall be required in respect of so much of the estimate of expense as shall be provided for by such surplus funds.

Cases in which declaration and estimate of amount of rates may be deposited.

59. In cases of any bill under which no private or personal pecuniary profit or advantage is to be derived, and where the work is to be made out of money to be raised upon the security of the rates, duties or revenue already belonging to or under the control of the promoters, or to be created by or to arise under the bill, a declaration stating those facts, and setting forth the means by which funds are to be obtained for executing the work, and signed by the party or agent soliciting the bill, together with an estimate of the probable amount of such rates, duties or revenue, signed by the person making the same, may be deposited, and in such case no money deposit shall be required.

*Bills brought from the House of Lords.*

Copy of railway bill to be deposited at Board of Trade.

60. A copy of every railway bill, tramway bill, subway bill, and canal bill, brought from the House of Lords shall be deposited in the office of the board of trade, not later than two days after the bill is read a first time.

[60*a*. Copy of bill conferring powers, &c., on municipal corporation, &c., to be deposited at Local Government Board.]

Notices to be given and deposits made in cases where work is altered while bill is in Parliament.

61. Whenever during the progress through the House of Lords of any bill of the second class originating in that house, any alteration has been made in any work authorized by such bill, proof shall be given before the examiners that a plan and section of such alteration, on the same scale and containing the same particulars as the original plan and section, together with a book of reference thereto, has been deposited in the private bill office, and with the clerk of the peace of every county, riding, or division in England or Ireland, and in the office of the sheriff clerk of every county in Scotland, in which such alteration is proposed to be made, and where any county in Scotland is divided into districts or divisions then also in the office of the principal sheriff clerk in and for each district or division in which such alteration is proposed to be made; and that a copy of such plan and section, so far as relates to each parish, together with a book of reference thereto, has been deposited with the parish clerks of each such parish in England, or, in the case of any extra-parochial place, with the parish clerk of some parish immediately adjoining thereto, with the session clerk of each such parish in Scotland, and in royal burghs with the town clerk, and the clerk of the union within which such parish in Ireland is included, in which such alteration is intended to be made, and in the case of any place within the limits of the metropolis, as defined by "The Metropolis Management Act, 1855," and the acts amending the same, with the clerk of the vestry, or of the district board, as the case may be, two weeks previously to the introduction of the bill into this House; and that the intention to make such alteration has been published previously to the introduction of the bill into this House once in the *London*, *Edinburgh* or *Dublin Gazette*, as the case may be, and for three successive weeks in some one and the same newspaper of the county in which such alteration is situate, or if there be no such paper printed therein, then in the newspaper of some county adjoining thereto; and that application in writing, as nearly as may be in the form set forth in the appendix, marked (A), was made to the owners or reputed owners, lessees or reputed lessees, or in their absence from the United Kingdom, to their agents respectively, and to the

occupiers of lands through which any such alteration is intended to be made; and the consent of such owners or reputed owners, lessees or reputed lessees, and occupiers, to the making of such alteration, shall be proved before the examiner. Compliance with this order shall be optional, and not compulsory, in the case of alterations made on petition for additional provision in the House of Lords.

*Provisions relating to the Consents of Proprietors or Members of Companies already constituted, and of Persons named as Directors.*

62. Every bill originating in this House, promoted by a company already constituted by Act of Parliament, shall after the first reading thereof be referred to the examiners, who shall report as to compliance or non-compliance with the following order :— Meeting of proprietors in the case of certain bills originating in this House

The bill, as introduced, or proposed to be introduced, in this House, shall be submitted to the proprietors of such company at a meeting held specially for that purpose.

Such meeting shall be called by advertisement inserted once in each of two consecutive weeks in some one and the same newspaper published in London, Edinburgh, or Dublin, as the case may be, and in some one and the same newspaper of the county or counties in which the principal office or offices of the company is or are situate; and also by a circular addressed to each proprietor at his last known or usual address, and sent by post, or delivered at such address, not less than ten days before the holding of such meeting, enclosing a blank form of proxy, with proper instructions for the use of the same; and the same form of proxy and the same instructions, and none other, shall be sent to every such proprietor; but no such form of proxy shall be stamped before it is sent out, nor shall the funds of the company be used for the stamping any proxies, nor shall intimation be sent as to any person in whose favour the proxy may be granted, and no other circular or form of proxy relating to such meeting shall be sent to any proprietor from the office of the company, or by any director or officer of the company so describing himself.

Such meeting shall be held not earlier than the seventh day after the last insertion of such advertisement, and may be held on the same day as an ordinary general meeting of the company.

At such meeting the said bill shall be submitted to the proprietors aforesaid then present, and approved of by proprietors, present in person or by proxy, holding at least three-fourths of the paid-up capital of the company represented by the votes at such meeting, such proprietors being qualified to vote at all ordinary meetings of the company in right of such capital. The votes of proprietors of any paid-up shares or stock other than debenture stock, not qualified to vote at ordinary meetings, whose interests may be affected by the bill, if tendered at the meeting shall be recorded separately. The names of the proprietors present in person at the meeting shall be recorded by the company. For this purpose the meeting, and any other consecutive meetings, whether general or special, and whether preceding or following it, shall be deemed to be the same meeting. A poll may be demanded by any proprietor present in person at the meeting.

There shall be deposited at the Private Bill Office a statement of the number of votes if a poll was taken, and of the number of votes recorded separately.

[63. Meeting of members of limited companies under Companies Act, 1862.]

Meeting of proprietors in the case of certain bills originating in the House of Lords.

64. In the case of every bill brought from the House of Lords in which provisions have been inserted in that House, empowering the promoters thereof being a company already constituted by Act of Parliament to execute, undertake, or contribute towards any work other than that for which it was originally established, or to sell or lease their undertaking, or any part thereof, or to enter into any agreements with any other company for the working, maintenance, management, or use of the railway or works of either company, or any part thereof, or to amalgamate their undertaking, or any part thereof with any other undertaking, or to purchase any other undertaking, or part thereof, or any additional lands, or to abandon their undertaking, or any part thereof, or to dissolve the said company, or in which any such provisions originally contained in the bill have been materially altered in that House, or in which any such powers are conferred on any company not being the promoters of the bill, the examiner shall report as to compliance or non-compliance with the following order:—

The bill, as introduced, or proposed to be introduced into this House, shall be submitted to the proprietors of any such company, at a meeting held specially for that purpose.

Such meeting shall be called by advertisement inserted once in each of two consecutive weeks in some one and the same newspaper published in London, Edinburgh, or Dublin, as the case may be, and in some one and the same newspaper of the county or counties in which the principal office or offices of the company is or are situate; and also by a circular addressed to each proprietor at his last known or usual address, and sent by post, or delivered at such address, not less than ten days before the holding of such meeting, enclosing a blank form of proxy, with proper instructions for the use of the same; and the same form of proxy and the same instructions, and none other, shall be sent to every such proprietor; but no such form of proxy shall be stamped before it is sent out, nor shall the funds of the company be used for the stamping any proxies, nor shall intimation be sent as to any person in whose favour the proxy may be granted, and no other circular or form of proxy relating to such meeting shall be sent to any proprietor from the office of the company, or by any director or officer of the company so describing himself.

Such meeting shall be held not earlier than the seventh day after the last insertion of such advertisement, and may be held on the same day as an ordinary general meeting of the company.

At such meeting the said bill shall be submitted to the proprietors aforesaid then present, and approved by proprietors present in person or by proxy, holding at least three-fourths of the paid-up capital of the company represented by the votes at such meeting, such proprietors being qualified to vote at all ordinary meetings of the company in right of such capital. The votes of proprietors of any paid-up shares or stock other than debenture stock, not qualified to vote at ordinary meetings, whose interests may be affected by the bill, if tendered at the meeting shall be recorded separately. The names of the proprietors present in person at the meeting shall be recorded by the company. For this purpose the meeting, and any other consecutive meetings whether general or special and whether preceding or following it, shall be deemed to be the same meeting. A poll may be demanded by any proprietor present in person at the meeting.

There shall be deposited at the Private Bill Office a statement of the number of votes if a poll was taken, and of the number of votes recorded separately.

So far as any such bill relates to a separate undertaking in any company as distinct from the general undertaking, separate meetings shall be held of the proprietors of the company and of the separate undertaking, and the provisions of this order applicable to meetings of proprietors of the company shall *mutatis mutandis* apply to meetings of proprietors of the separate undertaking.

Separate undertakings.

[65. Meeting of members of limited companies under Companies Act, 1862, &c.]

66. When any bill as introduced into Parliament, or as amended, or proposed to be amended, on petition for additional provision, contains a provision authorizing any company incorporated by act of Parliament, or any class of holders of share or loan capital in any such company, to subscribe or to alter the terms or conditions of any subscription towards, or to guarantee or to raise any money in aid of the undertaking of another company (which bill is not brought in by the company so authorized, or of which such company is not a joint promoter), proof shall be required before the examiner before the second reading in this House, if such provision is contained in the bill as introduced into Parliament, that the company, or the class of holders of share or loan capital, so authorized has consented to such subscription, alteration, guarantee, or raising of money, at a meeting of the proprietors of the company, or of any such class of holders of share or loan capital, as the case may be, held specially for that purpose, in the same manner and subject to the same provisions as the meeting directed to be held under Standing Order 64; and in case such provision is contained in the bill as introduced into Parliament, that the notices for the bill state the specific sum, if any, proposed to be subscribed, or guaranteed or raised, or the alteration of the terms or conditions of the subscription, as the case may be, or in case such provision shall be proposed to be inserted in the bill, on a petition for additional provision that notices stating the specific sum, if any, proposed to be inserted in the bill, on a petition for additional provision that notices stating the specific sum, if any, proposed to be subscribed, or guaranteed or raised, or the alteration of the terms or conditions of the subscription, as the case may be, and stating that the consent of the company, or of such class of holders of share or loan capital, has been given as aforesaid, have been published once in the *London*, *Edinburgh*, or *Dublin Gazette*, as the case may be, and in the county newspapers in which the notices for the bill were published, for three successive weeks during the six weeks immediately preceding the presentation of such petition for additional provision; in any case in which such consent has been given, it shall not be necessary to submit the bill, in respect of such provision as aforesaid, to the approval of a meeting to be held in accordance with Standing Order 64.

Consent of proprietors of any company to sum authorized to be raised in aid of undertaking of another company.

Petition for additional provision

67. When in any railway bill originating in this House a provision is contained by which the payment of any moneys is directly or contingently charged upon grand jury cess, or any other local rate in Ireland, by means of a guarantee or otherwise, such bill shall, after the first reading thereof, be referred to the examiners, who shall report as to compliance or non-compliance with the following order:—

Railway bills charging payments on grand jury cess or local rate in Ireland to be submitted to and approved by grand jury or local authority.

A copy of the bill, as deposited in the Private Bill Office, shall be submitted to the grand jury or other authority empowered to present such grand jury cess, or to make such local rate, and according as the payment of any moneys is by the said bill proposed to be charged upon a county at large, or upon one or more baronies in any county, or upon any part or parts of any barony or baronies, such bill shall also be submitted to the presentment sessions for such county at large, or for such barony or baronies, as the case may be, and also to the poor law guardians of every

union in which any lands proposed to be charged with the payment of any moneys are situate.

Notice of bill to grand jury or local authority.

Notice of the intention to submit a copy of such bill to such grand jury or other authority, and to such presentment sessions and board of guardians, shall be given ten days previously to submitting the same to the secretary or clerk of such grand jury or authority, or presentment sessions and board of guardians, and shall be advertised once in each of two consecutive weeks in some one and the same morning newspaper published in Dublin, and in some one and the same newspaper published in the county upon which, or upon any barony or baronies in which it is proposed by the bill to impose any local rate or charge, or if in such county no newspaper is published, then in some one and the same newspaper published in any adjoining county.

Limit of time for bill to be submitted, and presentment or resolution to be deposited in Private Bill Office.

A copy of such bill shall be so submitted not earlier than six months before the time fixed for the deposit of such bill, and not earlier than the seventh day after the last insertion of such advertisement; and shall be approved by a majority of the members of the grand jury or authority, presentment sessions, and board of guardians respectively, then present and voting thereon, and the presentment or resolution of each of the said bodies approving the same shall be deposited at the Private Bill Office, together with a statement under the hand of the foreman, chairman, or other person presiding when such presentment was made, or such resolution was passed, of the number of the members then present and voting.

Consent of directors, &c., who are named in a bill, to be proved.

68 When in any bill brought from the House of Lords for the purpose of establishing a company for carrying on any work or undertaking, any person is specified as manager, director, proprietor, or otherwise concerned in carrying such bill into effect, proof shall be required before the examiner that such person has subscribed his name to the petition for the bill, or to a printed copy of the bill, as brought up to this House.

## PART III.

### PROCEEDINGS OF, AND IN RELATION TO, THE EXAMINERS.

*Reference of Bills, &c., to, and Duties of, and Practice before Examiners.*

When examination of petitions to commence.

69. The examination of the petitions for private bills which shall have been duly deposited in the Private Bill Office, shall commence on the 18th day of January, in such order and according to such regulations as shall have been made by Mr. Speaker.

Notice to be given by one of the examiners of day appointed for examination.

70. One of the examiners shall give at least seven clear days' notice in the Private Bill Office of the day appointed for the examination of each petition which shall have been duly deposited in the Private Bill Office; and in case the promoters shall not appear at the time when the petition shall come on to be heard, the examiner to whom the case shall have been allotted shall strike the petition off the general list of petitions, and shall not re-insert the same, except by order of the House.

Examiner to indorse petition, and when Standing Orders not complied with, to report.

71. The examiner shall certify by indorsement on each petition whether the Standing Orders have or have not been complied with; and, when they have not been complied with, he shall also report to the House the facts upon which his decision is founded, and any special circumstances connected with the case.

Petitions for additional provision and estate bills from Lords, &c., to be referred to Examiner of Petitions.

72. All petitions for additional provision in private bills, with the proposed clauses annexed, and all private bills brought from the House of Lords, and all bills introduced by leave of the House in lieu of other bills which shall have been withdrawn, and all bills to confirm any provisional

order or provisional certificate, after having been read a first time, shall be referred to the examiners, and the examiner shall report to the House whether the Standing Orders have or have not been complied with, and when they have not been complied with, the facts upon which his decision is founded, and any special circumstances connected with the case, and in the case of any bill which, in pursuance of any report from the Chairman of the Committee of Ways and Means, has originated in the House of Lords, the compliance with such Standing Orders only as shall not have been previously inquired into shall be proved.

Notice in cases of petitions for additional provision in private bills, &c

73. In all cases of petitions for additional provision in private bills and of private bills brought from the House of Lords, and of bills introduced by leave of this House in lieu of other bills which shall have been withdrawn, and of bills for confirming any provisional order or certificate, the examiner shall give at least two clear days' notice in the Private Bill Office of the day on which the same will be examined; but, in the case of a bill for confirming any provisional order or certificate, he shall not give such notice until after the bill has been printed and circulated.

Memorials complaining of non-compliance.

74. Any parties shall be entitled to appear and to be heard, by themselves, their agents and witnesses, upon a memorial addressed to the examiner, complaining of a non-compliance with the Standing Orders, provided the matter complained of be specifically stated in such memorial, and the party (if any) who may be specially affected by the non-compliance with the Standing Orders have signed such memorial and shall not have withdrawn his signature thereto, and such memorial have been duly deposited in the Private Bill Office.

Proprietors dissenting at meeting under Orders 62 to 66 may petition and be heard.

75. In case any proprietor, shareholder, or member of or in any company, association, or co-partnership shall by himself, or any person authorized to act for him in that behalf, have dissented at any meeting called in pursuance of Standing Orders 62 to 66, such proprietor, shareholder, or member shall be permitted to be heard by the examiner of petitions, on the compliance with such Standing Order, by himself, his agents and witnesses, on a memorial addressed to the examiner, such memorial having been duly deposited in the Private Bill Office.

Proof by affidavit.

76. The examiner may admit affidavits in proof of the compliance with the Standing Orders, or may require further evidence; and such affidavit shall be sworn, if in England, before a justice of the peace, or a commissioner to administer oaths in the Supreme Cour tof Judicature; if in Scotland, before any sheriff depute or his substitute, or a justice of the peace; and if in Ireland, before any judge or assistant barrister of that part of the United Kingdom, or before a justice of the peace.

To report in cases of bills originating in the Lords.

77. The examiner shall make a report of the several cases in which he shall have certified that the Standing Orders have or have not been complied with in respect of any bills which, in pursuance of any report from the Chairman of the Committee of Ways and Means, under Standing Order 79, shall originate in the House of Lords; and where they have not been complied with, he shall also report, separately, the facts upon which his decision is founded, and any special circumstances connected with the case.

Special report in certain cases.

78. In case the examiner shall feel doubts as to the due construction of any Standing Order in its application to a particular case, he shall make a special report of the facts, without deciding whether the Standing Order has or has not been complied with; and in such case he shall indorse the petition with the words "special report," either alone, or if non-compliances with other Standing Orders shall have been proved, in addition to the words "Standing Orders not complied with."

## Proceedings of, and in relation to, the Chairman of the Committee of Ways and Means, and the Counsel to Mr. Speaker.

Chairman of Ways and Means to seek a conference with the Chairman of Committees of House of Lords.

79. The Chairman of the Committee of Ways and Means shall, at the commencement of each session, seek a conference with the Chairman of Committees of the House of Lords for the purpose of determining in which House of Parliament the respective private bills should be first considered, and such determination shall be reported to the House.

Chairman of Ways and Means to examine all private bills, &c.

80. The Chairman of the Committee of Ways and Means, with the assistance of the counsel to Mr. Speaker, shall examine all private bills, whether opposed or unopposed, and call the attention of the House, and also of the chairman of the committee on every opposed private bill, to all points which may appear to him to require it; and copies of all such bills shall be laid by the agent before the said chairman and counsel not later than the day after the examiner of petitions shall have indorsed the petition for the bill.

Chairman of Ways and Means to report on bills relating to Government contracts.

81. The Chairman of the Committee of Ways and Means shall make a report to the House previously to the second reading of any private bill by which it is intended to authorize, confirm, or alter any contract with any department of the Government whereby a public charge has been or may be created; and such report, together with a copy of the contract, and of any resolution to be proposed in relation thereto, shall be circulated with the votes two clear days at least before the day on which the resolution is to be considered in a committee of the whole house, which consideration shall not take place until after the time of private business; nor shall the report of any such resolution be considered until three clear days at least after the resolution shall have been agreed to by the Committee.

Copies of bill, as proposed to be submitted to committee, to be laid before Chairman of Ways and Means, &c.

82. Two clear days at least before the day appointed for the consideration of any private bill by a committee, there shall be laid before the Chairman of Ways and Means and the counsel to Mr. Speaker, by the agent, copies of every such bill as proposed to be submitted to the committee, and such copies shall be signed by the agent for the bill.

Power to chairman to report special circumstances, &c., to the House.

83. The Chairman of the Committee of Ways and Means shall be at liberty, at any period after any private bill shall have been referred to a committee, to report to the House any special circumstances relative thereto which may appear to him to require it, or to inform the House that in his opinion any unopposed private bill should be treated as an opposed private bill.

Copy of bill as amended in committee to be laid before Chairman of Ways and Means, &c.

84. Three clear days at least before the consideration of any private bill ordered to lie upon the table, a copy of every such bill, as amended in committee, shall be laid by the agent before the Chairman of the Committee of Ways and Means and the counsel to Mr. Speaker, and deposited at the office of her Majesty's Treasury, at the General Post Office, and at the office of the Board of Trade; and in the case of every bill required by Standing Order 33 to be deposited on or before the 21st day of December at the office of the Secretary of State for the Home Department, at the office of the Secretary of State for the Colonies, at the office of the Secretary for Scotland, at the office of the Local Government Board, at the office of the Education Department, or of the Scotch Education Department, at the office of the Commissioners of Her Majesty's Works and Public Buildings, at the office of Her Majesty's Woods, Forests, and Land Revenues, and at the office of the Duchy of Cornwall or the Duchy of Lancaster, a copy of such bill, as amended in committee, shall also be deposited at those offices respectively.

85. When it is intended to bring up any clause, or to propose any amendment on the consideration of any private bill ordered to lie upon the table, or any verbal amendment on the third reading of any private bill, the same shall be submitted by the agent to the Chairman of the Committee of Ways and Means and the counsel to Mr. Speaker, on the day on which notice is given thereof in the Private Bill Office.

Clause or amendment on consideration of bill, or on third reading, to be submitted to Chairman of Ways and Means, &c.

86. A copy of all amendments made in the House of Lords to any private bill, and of all amendments to such amendments intended to be proposed in this House, shall be laid by the agent before the Chairman of the Committee of Ways and Means and the counsel to Mr. Speaker, before two o'clock on the day previous to that on which the same are respectively appointed for consideration by the House.

Copy of amendments by House of Lords, and of proposed amendments thereto, to be laid before Chairman of Ways and Means, &c.

## PROCEEDINGS OF AND IN RELATION TO THE REFEREES ON PRIVATE BILLS.

87. The Chairman of Ways and Means, with not less than three other persons, who shall be appointed by Mr. Speaker for such period as he shall think fit, shall be referees of the House on private bills; such referees to form one or more courts; three at least to be required to constitute each court: provided that the chairman of any second court shall be a member of this House; and provided that no such referee, if he be a member of this House, shall receive any salary.

Referees on private bills to be constituted.

88. The practice and procedure of the referees, their times of sitting, order of business, and the forms and notices required in their proceedings, shall be prescribed by rules, to be framed by the Chairman of Ways and Means, subject to alteration by him as occasion may require, but only one counsel shall appear before such referees in support of a private bill, or in support of any petition in opposition thereto, unless specially authorized by the referees. All such rules and alterations, when made, to be laid on the table of the House.

Rules of practice and procedure to be made by Chairman of Ways and Means.

89. The referees shall decide upon all petitions against private bills, or against provisional orders, or provisional certificates, as to the rights of the petitioners to be heard upon such petitions, without prejudice, however, to the power of the select committee to which the bill is referred to decide upon any question as to such rights arising incidentally in the course of their proceedings.

Referees on private bills to decide as to rights of petitioners to be heard upon their petitions, &c.

## PROCEEDINGS OF AND IN RELATION TO THE SELECT COMMITTEE ON STANDING ORDERS.

91. There shall be a committee, to be designated "The Select Committee on Standing Orders," to consist of eleven members, who shall be nominated at the commencement of every session, of whom five shall be a quorum.

Committee on Standing Orders.

92. When any report of the examiner of petitions for private bills, in which he shall report that the Standing Orders have not been complied with, shall have been referred to the Select Committee on Standing Orders, and after the petition for the bill shall have been duly presented, they shall report to the House whether such Standing Orders ought or ought not to be dispensed with, and whether in their opinion the parties should be permitted to proceed with their bill, or any portion thereof, and under what (if any) conditions.

To report whether Standing Orders ought or ought not to be dispensed with.

93. The Select Committee on Standing Orders shall have power to report on the cases referred to them in respect of private bills originating

In cases of bills originating in Lords.

in the House of Lords, notwithstanding that the petitions for the same shall not have been presented to the House.

Proceeding in case of special report.

94. When any special report from the examiner of petitions as to the construction of a Standing Order shall have been referred to the Select Committee on Standing Orders, they shall determine, according to their construction of the Standing Order, and on the facts stated in such report, whether the Standing Orders have or have not been complied with, and they shall then either report to the House that the Standing Orders have been complied with, or shall proceed to consider the question of dispensing with the Standing Orders, as the case may be.

To report whether Sessional or Standing Orders ought or ought not to be dispensed with.

95. When any petition, praying that any of the sessional or Standing Orders of the House relating to private bills may be dispensed with, shall stand referred to the Select Committee on Standing Orders, they shall report to the House whether such sessional or Standing Orders ought or ought not to be dispensed with.

To report whether petition ought or ought not to be re-inserted in the general list.

96. When any petition for the re-insertion of any petition for a private bill in the general list of petitions shall stand referred to the Select Committee on Standing Orders, they shall report to the House whether in their opinion such petition ought or ought not to be re-inserted, and, if re-inserted, under what (if any) conditions.

To report whether clause or amendment on consideration of bill should be adopted by House or not, or whether bill should be re-committed.

97. When any clause or amendment proposed on the consideration of any private bill ordered to lie upon the table shall have been referred to the Select Committee on Standing Orders, they shall report to the House whether such clause or amendment should be adopted by the House or not, or whether the bill should be re-committed.

## Proceedings of and in relation to the Committee of Selection, and of the General Committee on Railway and Canal Bills.

Committee of selection.

98. There shall be a committee, to be designated "The Committee of Selection," to consist of the Chairman of the Select Committee on Standing Orders, who shall be ex-officio chairman thereof, and seven other members, who shall be nominated at the commencement of every session, of which committee three shall be a quorum.

General committee on railway and canal bills.

99. There shall be a committee, to be designated "The General Committee on Railway and Canal Bills," which shall be nominated at the commencement of every session by the committee of selection, of which committee three shall be a quorum.

Committee of selection may discharge members and add others.

100. The committee of selection may, from time to time, discharge members from further attendance on such general committee, and add other members in their room, and shall appoint the chairman of such committee.

General committee to appoint chairman.

101. The General Committee on Railway and Canal Bills shall appoint from among themselves the chairman of each committee on a railway or canal bill, or on a group of such bills, and may change the chairman so appointed from time to time.

Copies of bills for committee of selection and general committee.

102. Printed copies of all private bills, not being railway or canal bills, shall be laid before the committee of selection, and printed copies of all railway and canal bills before the General Committee on Railway and Canal Bills, by the parties promoting the same, at the first meeting of the said committees respectively.

Grouping of bills.

103. The committee of selection may, if they think fit, form into groups all private bills, not being railway or canal bills, and the General Committee on Railway and Canal Bills may form into groups all railway

and canal bills, which, in their opinion, it may be expedient to submit to the same committee, and such groups shall be published in the votes.

104. The General Committee on Railway and Canal Bills may, whenever they shall think fit, refer any unopposed railway or canal bill to the Chairman of the Committee of Ways and Means, together with two other members not locally or otherwise interested, or one such member and a referee, to be nominated by the committee of selection. Unopposed bills.

105. The committee of selection in the case of all private bills other than railway and canal bills, and the General Committee on Railway and Canal Bills in the case of such bills, shall, subject to the order in regard to the interval between the second reading of every private bill and the sitting of the committee thereupon, fix the time for holding the first sitting of every committee on a private bill which shall have been referred to either of the said committees. First sitting of committee.

106. The committee of selection shall name the bill or bills which shall be taken into consideration on the first day of the meeting of the committee on any group of bills not being railway or canal bills; and the General Committee on Railway and Canal Bills shall name the bill or bills which shall be taken into consideration on the first day of the meeting of each committee on any group of such bills. Committee of selection and general committee to name bill or bills to be considered on the first day.

107. The committee of selection shall consider no bill as an opposed private bill, unless, not later than ten clear days after the first reading thereof, a petition shall have been presented against it, in which the petitioner or petitioners shall have prayed to be heard, by themselves, their counsel or agents, or unless, where no such petition shall have been presented, the Chairman of the Committee of Ways and Means shall have reported to the House that in his opinion any bill ought to be so treated. What bills not to be considered opposed.

108. The committee of selection shall refer every opposed private bill which shall have been referred to them, or any group of such bills, to a chairman and three members, and a referee or chairman and three members, not locally or otherwise interested therein. Committees on opposed bills.

109. The committee of selection shall refer every unopposed private bill, which shall have been referred to them, not being a road bill, to the Chairman of the Committee of Ways and Means, together with one of the members ordered to prepare and bring in the same, and one other member not locally interested therein, or a referee, if the bill shall have originated in this House; and if the bill shall have been brought from the House of Lords, to the Chairman of the Committee of Ways and Means, together with two other members, of whom one at least shall not be locally or otherwise interested therein, or one member and a referee. Committees on unopposed bills.

[110. Road bills.]

111. The committee of selection shall give each member not less than seven days' notice, by publication in the votes or otherwise, of the week in which it will be necessary for him to be in attendance for the purpose of serving, if required, as a member, not locally or otherwise interested, of a committee on a private bill. Committee of selection to give notice to members.

112. The committee of selection shall give to each member sufficient notice of his appointment as a member of a committee on any private bill, or group of such bills, and, in every case where a declaration is required to be signed and returned by such member, shall transmit to him a blank form of the declaration required, with a request that it may forthwith be returned properly filled up and signed. Notice of appointment and declaration to be transmitted to members.

113. The committee of selection shall report to the House the name of every member from whom they shall not have received in due time such declaration, so filled up and signed, or, in lieu thereof, an excuse which they shall deem sufficient. Members returning no answer to be reported.

Discharging members.

114. The committee of selection shall have the power of discharging any member or members of a committee, and of substituting other members.

Committee of selection may send for persons, &c.

115. The committee of selection shall have power, in the execution of their duties, to send for persons, papers and records.

PROCEEDINGS OF COMMITTEES ON OPPOSED BILLS.

Committees on railway and canal bills.

116. The committee on every opposed railway and canal bill, or group of railway and canal bills, shall be composed of four members and a referee, or four members not locally or otherwise interested in the bill or bills referred to them; the chairman to be appointed by the general committee on railway and canal bills, and three other members by the committee of selection.

Committees on opposed bills.

117. The committee on every opposed private bill (not being a railway, canal or divorce bill), or group of bills, and the committee on any bill to confirm any provisional order or provisional certificate, shall be composed of a chairman and three members and a referee, or a chairman and three members not locally or otherwise interested in the bill or bills referred to them, to be appointed by the committee of selection.

Declaration of members.

118. Each member of a committee on an opposed private bill, or group of such bills, shall, before he be entitled to attend and vote on such committee, sign the following declaration:

I do hereby declare, that my constituents have no local interest, and that I have no personal interest, in such bill; and that I will never vote on any question which may arise without having duly heard and attended to the evidence relating thereto.

And no such committee shall proceed to business until the said declaration shall have been so signed by each of such members.

Quorum.

119. Committees shall not be allowed to proceed if more than one of their members be absent, unless by special leave of the House.

Members not to absent themselves.

120. No member of a committee on an opposed private bill shall absent himself from his duties thereon, except in the case of sickness, or by order of the House.

When chairman absent.

121. If the chairman shall be absent from the committee, the member next in rotation on the list of members who shall be present shall act as chairman, but in the case of railway and canal bills only until the general committee on such bills shall have appointed, if they shall so think fit, another chairman.

Proceedings to be suspended if quorum not present.

122. If at any time during the sitting of any committee more than one of the members be absent, the chairman shall suspend the proceedings of such committee; and if at the expiration of one hour from the time fixed for the meeting of the committee, or from the time when the chairman shall so have suspended the proceedings, more than one member be absent, the committee shall be adjourned to the next day on which the House shall sit, and then shall meet at the hour on which such committee would have sat, had no such adjournment taken place.

Members absent to be reported.

123. If any of the members shall not be present within one hour after the time appointed for the meeting of the committee, or if any member shall absent himself from his duties on such committee, every such member shall be reported to the House at its next sitting.

Absence of members to be reported.

124. If, at any time after the committee on a bill shall have been formed, a quorum of members required by the Standing Orders cannot attend in consequence of any of the members who shall have duly qualified to serve on such committee having become incompetent to continue such service by having been placed on an election committee, or by death or otherwise, the

chairman shall report the circumstances of the case to the House, in order that such measures may be taken by the House as shall enable the members still remaining on the committee to proceed with the business referred to such committee, or as the emergency of the case may require.

125. All questions before committees on private bills shall be decided by a majority of voices, including the voice of the chairman; and whenever the voices are equal, the chairman shall have a second or casting vote.

Questions to be decided by majority of voices.

126 The committee on each group of bills shall take the bill or bills first into consideration which shall have been named by the committee of selection, or by the general committee on railway and canal bills; and the committee shall, from time to time, appoint the day on which they will enter upon the consideration of each of the remaining bills, and on which they will require the parties severally promoting or opposing the same to enter appearances; and two clear days' notice, at the least, of such appointment, shall be given by the clerk attending the committee to the clerks in the Private Bill Office; and in case the committee shall postpone the consideration of any bill, notice shall be given of the day to which the same is postponed.

Committee on group to consider that bill first which committee of selection or general committee shall have named, &c.

127. Every committee on an opposed private bill shall report specially to the House the cause of any adjournment over any day on which the House shall sit.

Causes of adjournment to be specially reported.

128. No petition against a private bill, or a bill to confirm any provisional order or provisional certificate, shall be taken into consideration by the committee on such bill, which shall not distinctly specify the ground on which the petitioners object to any of the provisions thereof; and the petitioners shall be only heard on such grounds so stated; and if it shall appear to the said committee that such grounds are not specified with sufficient accuracy, the committee may direct that there be given in to the committee a more specific statement in writing, but limited to such grounds of objection so inaccurately specified.

Petition against bill not to be considered except grounds of objection sufficiently specified.

129. No petitioners against any private bill, or any bill to confirm any provisional order or provisional certificate, shall be heard before the committee on the bill, unless their petition shall have been prepared and signed in strict conformity with the rules and orders of this House, and shall have been presented to this House by having been deposited in the Private Bill Office, in the case of private bills, not later than ten clear days after the first reading of such bill, and in the case of bills to confirm any provisional order or provisional certificate, not later than seven clear days after the examiner shall have given notice of the day on which the bill will be examined, except where the petitioners shall complain of any matter which may have arisen during the progress of the bill before the said committee, or of any proposed additional provision, or of the amendments as proposed in the filled-up bill deposited in the Private Bill Office.

Petitioners against bill not to be heard unless petition presented not later than ten clear days after first reading, &c.

130. It shall be competent to the referees on private bills to admit petitioners to be heard upon their petitions against a private bill, on the ground of competition, if they shall think fit.

Competition to be a ground of locus standi.

131. Where a bill is promoted by an incorporated company, shareholders of such company shall not be entitled to be heard before the committee against such bill, unless their interests, as affected thereby, shall be distinct from the general interests of such company.

In what cases shareholders to be heard.

132. In case any proprietor, shareholder, or member of or in any company, association, or co-partnership, shall by himself or any person authorized to act for him in that behalf, have dissented at any meeting called in pursuance of Standing Orders 62 to 66, or at any meeting called in pursuance of any similar standing order of the House of Lords, such proprietor, shareholder, or member shall be permitted to be heard by the com-

Dissenting shareholders to be heard.

mittee on the bill on a petition presented to the House, such petition having been duly deposited in the Private Bill Office.

In what cases railway companies to be heard.

133. Where a railway bill contains provisions for taking or using any part of the lands, railway, stations or accommodations of another company, or for running engines or carriages upon or across the same, or for granting other facilities, such company shall be entitled to be heard upon their petition against such provisions or against the preamble and clauses of such bill.

Chambers of commerce, &c., may be heard in relation to rates and fares.

133*a*. Where a chamber of commerce or agriculture, or other similar body, sufficiently representing a particular trade or business in any district to which any railway bill relates, petition against the bill, alleging that such trade or business will be injuriously affected by the rates and fares proposed to be authorized by the bill, or is injuriously affected by the rates and fares already authorized by acts relating to the railway undertaking, it shall be competent to the referees on private bills, if they think fit, to admit the petitioners to be heard, on such allegation, against the bill, or any part thereof, or against the rates and fares authorized by the said acts, or any of them.

The provisions of this order relative to rates and fares already authorized, extend to traders and freighters, and to a single trader, in any case where a *locus standi* would have been allowed to them or him, if this order had not been made.

Nothing in this order shall authorize the referees to entertain any question within the jurisdiction of the railway commissioners.

Municipal authorities and inhabitants of towns, &c.

134. It shall be competent to the referees on private bills to admit the petitioners, being the municipal or other authority having the local management of the Metropolis, or of any town, or the inhabitants of any town or district alleged to be injuriously affected by a bill, to be heard against such bill, if they shall think fit.

[134*a*. Local authorities to have *locus standi* against lighting and water bills.]

[135. Petitions against tramway bills.]

When opposed bills may be treated as unopposed.

136. In all cases of opposed private bills, in which no parties shall have appeared on the petitions against such bills, or having appeared shall have withdrawn their opposition before the evidence of the promoters shall have been commenced, the committees on such bills shall forthwith refer them back, with a statement of the facts, if not railway or canal bills, to the committee of selection, and if railway and canal bills, to the general committee on railway and canal bills, who shall deal with them as unopposed bills.

## Committees on Unopposed Bills.

Committees on unopposed private bills.

137. The committee on every unopposed private bill (not being a railway, canal or divorce bill), shall, if the same shall have originated in this House, be composed of the chairman of the Committee of Ways and Means, who, when present, shall be *ex-officio* chairman of every such committee, together with one of the members ordered to prepare and bring in the bill, and one other member not locally or otherwise interested therein, or a referee, such members of the committee to be appointed by the committee of selection, and shall, if such bill shall have been brought from the House of Lords, be composed of the chairman, as aforesaid, and two other members, of whom one at least shall not be locally or otherwise interested in the bill, or one member and a referee, to be appointed by the committee of selection; and two shall be the quorum thereof.

## PROCEEDINGS OF, AND IN RELATION TO, COMMITTEES ON BILLS WHETHER OPPOSED OR UNOPPOSED.

138. At the first meeting of the committee, copies of the bill, as proposed to be submitted to them, and signed by the agent, shall be laid by him before each member of the committee. Filled-up copies of bill to be laid before each member.

139. No member, locally or otherwise interested, of a committee on any unopposed private bill shall have a vote on any question that may arise, but every such member shall be entitled to attend and take part in the proceedings of the committee. Local member not to vote.

140. The names of the members attending each committee shall be entered by the clerk on the minutes of the committee; and if any division shall take place in the committee, the clerk shall take down the names of members voting in any such division, distinguishing on which side of the question they respectively vote, and that such lists be given in with the report to the House. Names of members to be entered on minutes.

141. No committee shall have power to examine into the compliance or non-compliance with such standing orders as are directed to be proved before the examiner of petitions for private bills, unless by special order of the House. Committee on bill not to inquire into certain Standing Orders.

142. The committee on any private bill may admit affidavits in proof of the compliance with such standing orders of the House as are directed to be proved before them, or may require further evidence; and such affidavits shall be sworn, if in England, before a justice of the peace, or a commissioner to administer oaths in the Supreme Court of Judicature; if in Scotland, before any sheriff-depute or his substitute or a justice of the peace; and if in Ireland, before any judge or assistant barrister of that part of the United Kingdom, or before a justice of the peace. Committee may admit affidavits in proof of compliance with Standing Orders.

143. The committee may admit proof of the consents of parties concerned in interest in any private bill, by affidavits sworn as aforesaid, or by the certificate in writing of such parties, whose signatures to such certificate shall be proved by one or more witnesses, unless the committee shall require further evidence. Consents, how to be proved.

143*a*. A petitioner against a bill originating in the House of Lords who has discussed clauses in that House shall not on that account be precluded from opposing the preamble of the bill in this House. Petitioner who has discussed clauses of bill in Lords may oppose preamble.

144. In all bills presented to the House for carrying on any work by means of a company, commissioners, or trustees, provision shall be made for compelling persons who have subscribed any money towards carrying any such work into execution, to make payment of the sums severally subscribed by them. Clause compelling payment of subscriptions.

145. Where the level of any road shall be altered in making any public work, the ascent of any turnpike road, or of any road in Ireland so defined in the Railway Clauses Consolidation Act, 1845, shall not be more than one foot in thirty feet, and of any other public carriage road not more than one foot in twenty feet; and a good and sufficient fence, of four feet high at the least, shall be made on each side of every bridge which shall be erected. Level of roads. Fence to bridge.

145*a*. In the case of any bill relating to a railway, tramway, canal, dock, harbour, navigation, pier, or port, seeking powers to levy tolls, rates, or duties in excess of those already authorized for that undertaking, or usually authorized in previous years for like undertakings, the bill shall not be reported by the committee until a report from the Board of Trade on the powers so sought has been laid before the committee; and the committee shall report specially to the House in what manner the recommendations or observations in the report of the Board of Trade, and also in what manner Committee to report specially to House on railway, &c., bills, seeking powers to levy tolls, &c., in excess of those already authorized.

the clauses of the bill relating to the powers so sought, have been dealt with by the committee.

Plan, &c., to be signed by chairman.

146. Every plan and book of reference thereto, which shall be produced in evidence before the committee upon any private bill (whether the same shall have been previously lodged in the private bill office or not), shall be signed by the chairman of such committee, with his name at length; and he shall also mark with the initials of his name every alteration of such plan and book of reference, which shall be agreed upon by the said committee; and every such plan and book of reference shall thereafter be deposited in the private bill office.

"Committee bill."

147. The chairman of the committee shall sign, with his name at length, a printed copy of the bill (to be called the Committee Bill), on which the amendments are to be fairly written; and also sign, with the initials of his name, the several clauses added in the committee.

Chairman to report on allegations of bill, &c.

148. The chairman of the committee shall report to the House, that the allegations of the bill have been examined; and whether the parties concerned have given their consent (where such consent is required by the standing orders) to the satisfaction of the committee.

Chairman to report bill in all cases.

149. The chairman of the committee shall report the bill to the House, whether the committee shall or shall not have agreed to the preamble, or gone through the several clauses, or any of them; or where the parties shall have acquainted the committee that it is not their intention to proceed with the bill, and when any alteration shall have been made in the preamble of the bill, such alteration, together with the ground of making it, shall be specially stated in the report.

Committee to notice recommendation from government departments.

150. Whenever a recommendation shall have been made in a report on a private bill from a department of the Government referred to the committee, the committee shall notice such recommendation in their report, and shall state their reasons for dissenting, should such recommendation not be agreed to.

Proceedings on bills for confirming provisional orders, &c.

151. Whenever the House shall order that any bill for confirming a provisional order or a provisional certificate be referred to the committee of selection with respect to any order or certificate to be confirmed thereby, the proceedings of the select committee to which the bill is referred, and of the referees, shall be conducted in like manner as in the case of private bills, and shall be subject to the same rules and orders of the House so far as they are applicable, except those which relate to the payment of fees by the promoters of such provisional order or certificate.

Minutes of committee.

152. The minutes of the committee on every private bill shall be brough up and laid on the table of the House with the report of the bill.

*Railway, Tramway, and Subway Bills.*

Restrictions as to mortgage.

153. In the case of a railway bill, no company shall be authorized to raise, by loan or mortgage, a larger sum than one-third of their capital; and until fifty per cent. on the whole of the capital shall have been paid up, it shall not be in the power of the company to raise any money, by loan or mortgage, unless the committee on the bill shall report that such restrictions or either of them ought not to be enforced, with the reasons on which their opinion is founded.

The same rule shall apply in the case of a tramway, tramroad, or subway bill, one-fourth of the capital being substituted for one-third.

Limiting ascent of roads where level is altered.

154. Where the level of any road shall be altered in making any railway, the ascent of any turnpike road, or of any road in Ireland, so defined in the Railway Clauses Consolidation Act, 1845, shall not be more than one foot in 30 feet, and of any other public carriage-road not more than one foot in 20 feet, unless a report thereupon from some officer of the Board of Trade

shall be laid before the committee on the bill, and unless the committee, after considering such report, if they shall disagree with the said report, shall recommend steeper ascents, with the reasons and facts upon which their opinion is founded: Also, a good and sufficient fence, of four feet high at the least, shall be made on each side of every bridge which shall be erected.

155. No railway whereon carriages are propelled by steam, or by atmospheric agency, or drawn by ropes in connexion with a stationary steam-engine, shall be made across any railway, tramway, turnpike-road or other public carriage-way on the level, unless a report thereupon from some officer of the Board of Trade shall be laid before the committee on the bill, and unless the committee, after considering such report, if they shall disagree with the said report, shall recommend such level crossing, with the reasons and facts upon which their opinion is founded; and in every clause authorizing a level crossing, the number of lines of rails authorized to be made at such crossing shall be specified. Railway not to cross railways or roads on a level unless committee report, &c.

156. No railway company shall be authorized to construct or enlarge, purchase or take on lease, or otherwise appropriate any canal, dock, pier, harbour or ferry, or to acquire and use any steam-vessels for the conveyance of goods and passengers, or to apply any portion of their capital or revenue to other objects, distinct from the undertaking of a railway company, unless the committee on the bill report that such a restriction ought not to be enforced, with the reasons and facts upon which their opinion is founded. Railway company not to acquire canals, docks, &c., unless committee report, &c.

157. Every committee on a railway bill shall report specially to the House,— Special reports

Whether any report from any public department in regard to the bill, or the objects thereof, has been referred by the House to the committee; and, if so, in what manner the several recommendations contained in such report have been dealt with by the committee;

Whether it be intended that the railway shall cross on a level any railway, turnpike road, or highway:

And any other circumstances which, in the opinion of the committee, it is desirable that the House should be informed of.

158. In every railway bill, tramway bill, and subway bill, whereby the construction of any new line of railway, tramway, or subway is authorized, or the time for completing any line already authorized is extended, promoted by an existing railway company, tramway company or subway company which is possessed of a railway, tramway, or subway already opened for public traffic, and which has, during the year last past, paid dividends on its ordinary share capital, and which does not propose to raise under the bill a capital greater than its existing authorized capital, there shall be inserted a clause to the following effect, viz.: Clause imposing penalty unless line be opened.

(A.) If the company fail within the period limited by this act to complete the railway, tramway, or subway authorized to be made by this act, the company shall be liable to a penalty of 50*l.* a day for every day after the expiration of the period so limited until the said railway, tramway, or subway is completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per cent. on the estimated cost of the works; and the said penalty may be applied for by any landowner or other person claiming to be compensated in accordance with the provisions of the next following section of this act, and in the same manner as the penalty provided in the 3rd section of the act 17 & 18 Vict. c. 31, known as "The Railway and Canal Traffic Act, 1854," and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in the said 3rd section of the

Act 17 & 18 Vict. c. 31, to an account opened or to be opened in the name and with the privity of the Paymaster-General for and on behalf of the Supreme Court of Judicature in England [the Queen's Remembrancer of the Court of Exchequer in Scotland, or the Accountant General of the Supreme Court of Judicature in Ireland (according as the railway, tramway, or subway is situate in England, Scotland, or Ireland,)] in the bank named in such order, and shall not be paid thereout except as hereinafter provided; but no penalty shall accrue in respect of any time during which it shall appear, by a certificate to be obtained from the Board of Trade, that the company was prevented from completing or opening such line by unforeseen accident or circumstances beyond their control: Provided, that the want of sufficient funds shall not be held to be a circumstance beyond their control.

*Railway, Tramway, or Subway Deposits.*

Clause to be inserted, providing that deposit be impounded as security for completion of the line.

In every railway bill, tramway bill, or subway bill whereby the construction of any new line is authorized, or the time for completing any line already authorized is extended; if such bill be promoted by an existing railway company, tramway company, or subway company which is not possessed of a railway, tramway, or subway, already opened for public traffic, or which has not during the year last past paid dividends on its ordinary share capital; or by an existing railway company, tramway company, or subway company, when the capital to be raised under the bill is greater than the existing authorized capital of the company, or by persons not already incorporated, a clause to the following effect shall be inserted, viz.:—

(B.) Whereas, pursuant to the Standing Orders of both Houses of Parliament, and to an act passed in the session of Parliament held in the ninth and tenth years of her present Majesty, c. 20, a sum of £ being five per cent. upon the amount of the estimate in respect of the railway, or tramway, or subway authorized by this act, has been deposited with the court, that is to say, the Paymaster-General for and on behalf of the Supreme Court of Judicature in England [or the Court of Exchequer in Scotland, or the Accountant-General of the Supreme Court of Judicature in Ireland, as the case may be]; [or exchequer bills, stocks, or funds to the amount of £ , have been deposited or transferred pursuant to the said act, as the case may be], in respect of the application to Parliament for this act (which sum, exchequer bills, stocks, or funds, as the case may be, is or are in this act referred to as "the deposit fund:") Be it enacted, that notwithstanding anything contained in the said recited act, the deposit fund shall not be paid or transferred to or on the application of the person or persons, or the majority of the persons, named in the warrant or order issued in pursuance of the said act, or the survivors or survivor of them (which persons, survivors, or survivor, are or is in this act referred to as the "depositors") unless the company shall, previously to the expiration of the period limited by this act for completion of the railway [tramway or subway] hereby authorized to be made [or the time for completing which is hereby extended], open the said railway [tramway or subway] for public traffic [or, if a passenger railway, for the public conveyance of passengers]: Provided that, if within such period as aforesaid the company open any portion of the said railway [tramway or subway] for public traffic [or, if a passenger railway, for the public

conveyance of passengers], then on production of a certificate of the Board of Trade, specifying the length of the portion of the said railway [tramway or subway] opened as aforesaid, and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the said railway [tramway or subway] so opened bears to the entire length of the said railway [tramway or subway] hereby authorized, the High Court of Justice in England [Ireland] shall, on the application of the depositors, order the said portion of the deposit fund so specified in such certificate as aforesaid to be paid or transferred to them, or as they shall direct; and the certificate of the Board of Trade shall, if signed by the secretary, or by an assistant secretary of the said Board, be sufficient evidence of the facts therein certified; and it shall not be necessary to produce any certificate of this act having passed, anything in the recited act to the contrary notwithstanding.

Application of deposit or penalty in compensation to parties injured.

In every railway bill, tramway bill, or subway bill whereby the construction of any new line of railway, tramway, or subway is authorized, or the time for completing any line already authorized is extended, a clause to the following effect shall be inserted:—

(C.) If the company do not, previously to the expiration of the period limited by this act for the completion of the railway [tramway or subway] hereby authorized to be made (or the time for completion which is hereby extended) complete the said railway [tramway or subway] and open it for public traffic [or, if a passenger railway, for the public conveyance of passengers], then and in every such case the deposit fund, or so much thereof as shall not have been paid to the depositors, or any sum of money recovered by way of penalty as aforesaid shall be applicable, and after due notice in the *London Gazette*, or *Edinburgh*, or *Dublin Gazette*, as the case may require, shall be applied towards compensating any landowners or other persons whose property may have been interfered with, or otherwise rendered less valuable, by the commencement, construction, or abandonment of the said railway [tramway or subway], or any portion thereof, or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the company by this act, [and also (in the case of a tramway) in compensating all road authorities for the expense incurred by them in taking up any tramway or materials connected therewith, placed by the company in or on any road vested in or maintainable by such road authorities respectively, and in making good all damage caused to such roads by the construction or abandonment of such tramway], and for which injury or loss no compensation or inadequate compensation shall have been paid, and shall be distributed in satisfaction of such compensation as aforesaid, in such manner and in such proportions as to the court may seem fit; and if no such compensation shall be payable, or if a portion of the deposit fund (or of the sum or sums of money recovered by way of penalty as aforesaid) shall have been found sufficient to satisfy all just claims in respect of such compensation, then the deposit fund (or the sum or sums of money recovered by way of penalty as aforesaid), or such portion thereof as may not be required as aforesaid, shall either be forfeited to Her Majesty, and shall accordingly be paid or transferred to or for the account of Her Majesty's exchequer, in such manner as the court thinks fit to order on the application of the

solicitor to Her Majesty's treasury, and shall be carried to and form part of the consolidated fund of the United Kingdom, or, in the discretion of the court, if the company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver, or to the liquidator or liquidators of the company, or be otherwise applied as part of the assets of the company for the benefit of the creditors thereof: Provided, That until the deposit fund shall have been repaid to the depositors, or shall have become otherwise applicable as hereinbefore mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same shall become payable, be paid to or on the application of the depositors.

N.B.—*If the clause lettered (A) is inserted in the bill, the proviso at the end of the clause lettered (C.) shall be omitted.*

Time limited for completion of line.

(D.) If the railway [or tramway] authorized by this act shall not be completed within the period limited by this act, then, on the expiration of such period, the powers by this act granted to the company for making and completing the said railway [or tramway], or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed. The period limited shall not in the case of a new railway line exceed five years [or in the case of a new tramway line two years], and the extension of time for completion shall not in the case of a railway line exceed three years [or in the case of a tramway line one year]. In the case of extension of time the additional period shall be computed from the expiration of the period sought to be extended.

Where preceding provisions are inapplicable.

In any railway bill or tramway bill to which the preceding provisions are not applicable, the committee on the bill shall make such other provision as they shall deem necessary for ensuring the completion of the line of railway or tramway.

In case of abandonment, committee to report how recommendations of Board of Trade have been dealt with.

158A. In the case of every bill authorizing, before the expiration of the time limited for the completion of a railway, tramway, or subway, the abandonment thereof, or of any part thereof, and the release of any deposit money impounded as security for such completion, a report from the Board of Trade respecting the bill, and the objects thereof, shall be presented to this House, and be referred to the committee on the bill; and the committee shall report specially to the House in what manner the several recommendations contained in the report from the Board of Trade have been dealt with by the committee.

Committee to fix the tolls and charges.

159. The committee on every railway bill shall fix the tolls, and shall determine the maximum rates of charge for the conveyance of passengers, with a due amount of luggage and of goods on such railway, and such rates of charge shall include the tolls and the costs of locomotive power, and every other expense connected with the conveyance of passengers, with a due amount of luggage and of goods upon such railway; but if the committee shall not deem it expedient to determine such maximum rates of charge, a special report, explanatory of the grounds of their omitting so to do, shall be made to the house, which special report shall accompany the report of the bill.

In bills granting preference in payment of interest, &c., provision to be made that the same shall not prejudice former

160. In every railway bill by which it is proposed to authorize the company to grant any preference or priority in the payment of interest or dividends on any shares or stock, there shall be inserted a clause providing that the granting of such preference or priority shall not prejudice or affect any preference or priority in the payment of interest or dividends on any

other shares or stock which shall have been granted by the company in pursuance of or which may have been confirmed by any previous Act of Parliament, or which may otherwise be lawfully subsisting, unless the committee on the bill shall report that such provision ought not to be required, with the reasons on which their opinion is founded.

grants of preference, unless committee report otherwise.

161. No railway company shall be authorized to alter the terms of any preference or priority of interest or dividend which shall have been granted by such company in pursuance of or which may have been confirmed by any previous Act of Parliament, or which may otherwise be lawfully subsisting, unless the committee on the bill report that such alteration ought to be allowed, with the reasons on which their opinion is founded, together with the number of preference shareholders who have assented to or dissented from such alteration.

Company not to alter any preference previously granted.

162. No powers of purchasing hiring, or providing steam vessels shall be contained in a bill by which any other powers are sought to be obtained by a railway company, except when the transit by such steam vessels is required to connect portions of railway belonging to or proposed to be constructed by such company.

No power of purchasing, &c., steam vessels in railway bills.

163. No powers of purchase, sale, lease or amalgamation shall be given to any railway company, with reference to any other undertaking already authorized by any act or acts, nor to any other incorporated company, with reference to any railway, unless, previously to the application to Parliament for such purpose, the several companies who may be parties to such purchase, sale, lease or amalgamation shall have proved to the satisfaction of the Board of Trade, that they have respectively paid up one half of the capital authorized to be raised by any previous act or acts by means of shares, and have expended for the purposes of such act or acts a sum equal thereto; and in case such powers shall be applied for in respect of works intended to be authorized by any bill or bills of the same session, it shall be proved to the satisfaction of the Board of Trade that such companies have respectively paid up one-half the amount of their capital, and that the company proposed to be empowered to construct such works have included in such amount the capital proposed to be authorized by such bill or bills; and that no such powers shall be given in respect of works intended to be authorized by any act or acts for which it is intended to apply in any subsequent session.

No powers of purchase, &c., to be given, except after proof of certain matters before Board of Trade, &c.

164. No railway company shall be authorized, except for the execution of its original line or lines sanctioned by act of Parliament, to guarantee interest on any shares which it may issue for creating additional capital, or to guarantee any rent or dividend to any other railway company, until such first-mentioned company shall have completed and opened for traffic such original lines.

Railway company not to guarantee interest or dividend before completion of line.

165. In bills for the amalgamation of railway companies, the amount of capital created by such amalgamation shall in no case exceed the sum of the capitals of the companies so amalgamated.

Limitation of capital on amalgamation of companies.

166. In bills for empowering any railway company to purchase any other railway, no addition shall be authorized to be made to the capital of the purchasing company, beyond the amount of the capital of the railway purchased; and in case such railway shall be purchased at a premium, no addition on account of such premium shall be made to the capital of the purchasing company.

Additional capital of purchasing company not to amount to more than capital of company purchased.

167. A clause shall be inserted in every railway bill, prohibiting the payment of any interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him, except such interest on money advanced by any shareholder beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act,

Clause that no interest or dividend be paid on calls.

1845, or the Companies Clauses Consolidation (Scotland) Acts, 1845, as the case may be; and except such interest (if any) as the committee on the bill may, according to the circumstances of the case, think fit to allow, subject always to the following conditions:—

(1.) That the rate of interest allowed by the committee do not in any case exceed four per centum per annum;

(2.) That interest be allowed to be paid in respect only of the time allowed by the bill for the completion of the railway, or such less time as the committee think fit;

(3.) That payment of interest be not allowed to begin until the railway company have obtained a certificate of the Board of Trade to the effect that two-thirds at least of the share capital authorized by the bill, in respect whereof interest may be paid, have been actually issued and accepted, and are held by shareholders, who, or whose executors, administrators, successors, or assigns, are legally liable for the same;

(4.) That interest do not accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear;

(5.) That the aggregate amount to be so paid for interest be estimated and stated in the bill, and be not deemed capital within Standing Order 153;

(6.) That notice of the company having power so to pay interest be given in every prospectus, advertisement, or other document of the company inviting subscriptions for shares, and in every certificate of shares; and

(7.) That the half-yearly accounts of the company do show the amount on which, and the rate at which, interest has been paid:—

and the company shall be authorized by the bill to pay interest accordingly, but not further or otherwise.

If in any case the committee on the bill do not think fit to allow any such interest, then there shall be inserted in the bill provisions making liable to penalties, recoverable summarily, any director or officer of the company who shall, directly or indirectly, pay or procure to be paid any interest or dividend prohibited as aforesaid, and making illegal and void any contract entered into by the company, or the directors thereof, or any of them, under which payment of any interest or dividend prohibited as aforesaid shall be, directly or indirectly, provided for.

The bill shall not be reported by the committee until there has been laid before them a report from the Board of Trade respecting any proposed payment of interest; and the committee shall report specially to the House in what manner they have dealt with the recommendations or observations in the report of the Board of Trade.

Clause as to deposits not to be paid out of capital.

168. A clause shall be inserted in every railway bill by which any money is authorized to be raised, prohibiting the company from paying, out of such money, the deposits required by the standing orders to be made for the purposes of any application to Parliament for a bill for the construction of another railway.

Application of Standing Orders, 145*a* and Nos. 158 to 168, inclusive.

168*a*. The foregoing Orders, No. 145*a* and Nos. 158 to 168, inclusive, shall apply *mutatis mutandis* to subways, subway companies, and subway bills, and to tramroads, tramroad companies, and tramroad bills.

### *Tramroad Bills.*

Application of Railway and Canal Traffic Act, &c., to tramroads.

168*b*. In every bill for the construction of a tramroad of railway gauge, and intended to communicate with a railway, a clause shall be inserted that the provisions of "The Railway and Canal Traffic Act, 1854," and of the Regulation of Railways Acts, 1873 and 1874, shall apply to the com-

pany as if they were a railway or canal company, and to the tramroad to be authorized by the act as if such tramroad were a railway or canal.

169. The following clause shall be inserted in all railway bills passing through this House: *Clause as to railway not to be exempt from any general act.*

And be it further enacted, that nothing herein contained shall be deemed or construed to exempt the railway by this or the said recited acts authorized to be made from the provisions of any general act relating to railways now in force, or which may hereafter pass during this or any future session of Parliament, or from any future revision and alteration, under the authority of Parliament, of the maximum rates of fares and charges authorized by this act [or by the said recited acts].

170. In every railway bill, tramway bill, and subway bill, the length of each railway, tramway, and subway be set forth in miles, furlongs, chains, and yards, or decimals of a chain, in the clause describing the works, with a statement in the case of each tramway whether it is a single or a double line. *Length of railway, tramway, and subway to be set forth and specified in clause describing the works.*

[171—173*a*. Tramway and local government bills.]

*Agreements.*

174. Where it is sought by any bill to give Parliamentary sanction to any agreement, such agreement shall be annexed to the bill as a schedule thereto, and shall be printed *in extenso* therewith. *Agreement to be annexed to bill.*

[175—183. Patent, inclosure and drainage bills.]

*Houses of the Labouring Classes.*

183*a*. In the case of every bill which contains power to take land compulsorily or by agreement, or which extends the time for taking land compulsorily or by agreement, clauses shall be inserted—

(1.) Providing that the promoters shall not, in the exercise of such power, purchase or acquire in any parish in the metropolis, twenty or more houses, or as regards England and Wales, exclusive of the metropolis, in any city, borough, or other urban sanitary district, or in any parish or part of a parish not being within an urban sanitary district, or in Scotland in any district within the meaning of "The Public Health (Scotland) Act, 1867," or in Ireland in any urban sanitary district as defined by "The Public Health (Ireland) Act, 1878," ten or more houses, occupied either wholly or partially by persons belonging to the labouring class as defined by this order, as tenants or lodgers, unless and until *Clauses to be inserted in bills.*

(a.) They shall have obtained the approval of the central authority to a scheme for providing new dwellings for the persons residing in such houses, or for such number or proportion of such persons as the central authority shall, after inquiry, deem necessary, having regard to the number of persons residing in the houses liable to be taken and working within one mile therefrom, and to the amount of vacant suitable accommodation in the immediate neighbourhood of the houses liable to be taken, or to the place of employment of such persons, and to all the other circumstances of the case; and

(b.) They shall have given security to the satisfaction of the central authority for the carrying out of the scheme;

(2.) Imposing adequate penalties on the promoters in the event of houses being acquired or appropriated for the purposes of the bill in contravention of the foregoing provisions; and

(3.) Conferring on the promoters and on the central authority respectively any powers that may be necessary to enable full effect to be given to the said scheme;

Payment of expenses incurred by central authority.

The committee on the bill may provide that the expenses or any part of the expenses incurred by the central authority under this order shall be defrayed by the promoters of the bill, or out of moneys to be raised under the bill:

Definition of expressions "labouring class," &c.

In this Standing Order and in Standing Order No. 38,

The expression "labouring class" includes mechanics, artizans, labourers, and others working for wages, hawkers, costermongers, persons not working for wages but working at some trade or handicraft without employing others except members of their own family, and persons, other than domestic servants, whose income does not exceed an average of thirty shillings a week, and the families of any of such persons who may be residing with them:

The expression "the metropolis" means the metropolis as defined by the Metropolis Management Act, 1855:

The expression "central authority" means, as regards the metropolis, the Secretary of State for the Home Department, and as regards Scotland, the Secretary for Scotland, and as regards England and Wales, exclusive of the metropolis, the Local Government Board, and as regards Ireland, the Local Government Board for Ireland:

The word "bill" includes a bill confirming a provisional order.

[187. Irish roads, burial ground, divorce bills, &c.]

## PART IV.

### THE ORDERS REGULATING THE PRACTICE OF THE HOUSE WITH REGARD TO PRIVATE BILLS.

Petition for bill and how to be signed.

193. No private bill shall be brought into this House, but upon a petition first presented, which shall have been duly deposited in the Private Bill Office, and indorsed by one of the examiners, with a printed copy of the proposed bill annexed: and such petition shall be signed by the parties or some of them, who are suitors for the bill.

Procedure in case of bills promoted by the Metropolitan Board of Works.

194. All bills promoted by the Metropolitan Board of Works, containing power to raise money, shall be introduced as private bills; but after being read a second time by the House, shall be referred to a select committee to be nominated by the committee of selection, in like manner as private bills.

Petitions, when to be presented.

195. All petitions for private bills shall be presented to the House not later than three clear days after the same shall have been indorsed by the examiner, or if, when the same is indorsed, the House shall not be sitting, then not later than three clear days after the first sitting thereof subsequent to such indorsement; and if the House shall not be sitting on the latest day on which any petition ought to be presented, then the same shall be presented on the first day on which the House shall again sit.

How private bills to be presented.

196. All private bills which have been ordered to be brought in shall be presented to the House by depositing the same in the Private Bill Office, and shall be laid, by one of the clerks of that office, on the table of the House for first reading, together with a list of such bills.

197. No private bill shall be read a first time unless it be presented not later than one clear day after the presentation of the petition for leave to bring in the same; or where the petition has been referred to the select committee on Standing Orders, then not later than one clear day after the House shall have given leave to the parties to proceed with the bill. Bill, when to be presented.

198. No petition for additional provision in any private bill will be received by this House, unless a printed copy of the proposed clauses be annexed thereto. Petition for additional provision.

199. All reports of the examiner of petitions for private bills, in which he shall report that the Standing Orders have not been complied with, and all special reports of the said examiner, shall be referred to the select committee on Standing Orders. Reports of examiner to be referred to committee on Standing Orders.

200. All petitions praying that any of the sessional or Standing Orders of the House relating to private bills may be dispensed with, and all petitions for the re-insertion of petitions for private bills in the general list of petitions, and all petitions opposing the same, shall be presented to this House by depositing the same in the Private Bill Office; and every such petition, so deposited, shall stand referred to the select committee on Standing Orders. Petitions for dispensation, &c., to be referred to Committee on Standing Orders.

200*a*. Where a bill having been brought in on motion (not being a bill to confirm a provisional order or certificate) is read the first time, and ordered to be read a second time, on a day appointed, and it appears that the Standing Orders relative to private bills may be applicable to the bill, the examiners of petitions for private bills shall examine the bill with respect to compliance with the Standing Orders, and shall proceed and report forthwith, and the order of the day relating to the bill shall not be affected thereby; but, if the examiner report that any Standing Order applicable to the bill has not been complied with, and the select committtee on Standing Orders report that such Standing Order ought not to be dispensed with, the order of the day relating to the bill shall be discharged. When Standing Orders applicable to bill brought in on motion are not complied with, order of the day relating to the bill discharged.

201. Every private bill, printed on paper, of a size to be determined upon by Mr Speaker, shall be presented to the House, with a cover of parchment attached to it, upon which the title of the bill is to be written; and the short title of the bill, as first entered on the votes, shall correspond with that at the head of the advertisement. Printed bill to be presented.

202. All rates, tolls, charges, duties, or penalties of every description, the amount of capital to be raised, and of borrowing powers, the names of directors, the period for completion of works or for purchase of lands, the quantity of land to be taken for extraordinary purposes, the amount of personal luggage to be carried free of charge, and all charges in any way affecting the public revenue, which occur in the clauses of any private bill, shall be printed in *italics* in such bill when presented to the House. Rates, tolls and other matters to be inserted in *italics*.

203. Every private bill (except name bills) shall be printed; and printed copies thereof delivered to the vote office for the use of the members before the first reading. What bills to be printed, and when.

204. There shall not be less than three clear days, nor more than seven, between the first and second reading of any private bill, or any bill to confirm any provisional order or provisional certificate, unless any such private bill have been referred to the examiners of petitions for private bills, in which case such bill shall not be read a second time later than seven clear days after the report of the examiner, or of the select committee on Standing Orders, as the case may be. Time between first and second reading.

205. Every petition in favour of or against any private bill, or any bill to confirm any provisional order or provisional certificate before the House, or otherwise relating thereto (not being a petition for additional provision), shall be presented to this House, by depositing the same in the Private Bill office, and there shall be indorsed thereon the name or short title by which Petition relating to bills to be presented to House by being deposited in the Private Bill Office, and name of bill to be indorsed on every petition.

such bill is entered in the votes, and a statement that such petition is in favour of or against the bill, or otherwise, as the case may be, together with the name of the member, party or agent depositing the same.

Petitioner or memorialist may withdraw petition or memorial

206. Any petitioner or memorialist may withdraw his petition or memorial, on a requisition to that effect being deposited in the Private Bill Office, signed by him or by the agent who deposited such petition or memorial; and where any such petition or memorial is signed by more than one person, any person signing such petition or memorial may withdraw his opposition by a similar requisition, signed and deposited as aforesaid.

When second or third reading opposed, to be postponed.

207. In cases where the second or third reading of a private bill, or the consideration of a bill as amended by the committee, or any proposed clause or amendment, is opposed, the same shall be postponed until the day on which the House shall next sit.

Certain private bills to stand referred to committees of selection, general committee on railway and canal bills, and divorce

208. Every private bill, not being a railway, canal or divorce bill, after having been read a second time and committed, shall stand referred to the committee of selection, and if a railway or canal bill, to the general committee on railway and canal bills; and if a divorce bill, to the select committee on divorce bills.

Provisional order bills to stand referred to committee of selection, or general committee on railway and canal bills, &c.

208*a* Every bill for confirming provisional orders or provisional certificates shall, after the second reading, stand referred to the committee of selection, or to the general committee on railway and canal bills, as the case may require, and be subject to the Standing Orders regulating the proceedings upon private bills, so far as they are applicable: Provided, That when any order or certificate contained in any such bill is opposed, the committee to whom such opposed order or certificate is referred shall consider all the orders or certificates comprised in such bill.

When unopposed bill is to be treated as opposed, to be again referred to committee of selection or general committee.

209. When the House shall have been informed by the chairman of ways and means, that in his opinion any unopposed private bill should be treated as an opposed bill, such bill shall be again referred to the committee of selection; or in the case of a railway or canal bill, to the general committee on railway and canal bills.

Petition against bill, if duly deposited in Private Bill Office, to stand referred to committee on bill, &c.

210. Every petition against a private bill which shall have been deposited in the Private Bill Office not later than ten clear days after the first reading of such bill, and every petition against any bill to confirm any provisional order or provisional certificate, which shall have been deposited in the Private Bill Office not later than seven clear days after the examiner shall have given notice of the day on which the bill will be examined, or which shall have been otherwise deposited in accordance with the Standing Orders of the House, and in which the petitioners shall have prayed to be heard, by themselves, their counsel or agents, shall stand referred to the committee on such bill, and such petitioners, subject to the rules and orders of the House, shall be heard upon their petition accordingly, if they think fit, and counsel heard, in favour of the bill, against such petition.

Time between second reading and committee.

211. There shall be six clear days between the second reading of every private bill, and of every bill to confirm any provisional order or provisional certificate, and the sitting of the committee thereupon, except in the case of name bills, naturalization bills, and estate bills (not being bills relating to crown, church or corporation property, or property held in trust for public or charitable purposes), in respect of which there shall be three clear days between the second reading and the committee.

Reports of departments to stand referred to committee on bill.

212. All reports made under the authority of any public department upon a private bill, or the objects thereof, laid before the house, shall stand referred to the committee on the bill.

Report of bills.

213. The report upon every private bill shall lie upon the table: and every such bill, if amended in committee, or a railway or a tramway bill, shall be ordered to lie upon the table; but if not amended in committee,

and not a railway or a tramway bill, it shall be ordered to be read a third time.

214. Every private bill, as amended in committee, shall be printed at the expense of the parties applying for the same, and delivered to the vote office for the use of the members, three clear days at least before the consideration of such bill. Bill to be printed after report.

215. In the case of private bills ordered to lie upon the table, three clear days shall intervene between the report and the consideration of the bill, and no consideration of any such bill shall take place, unless the chairman of the committee of ways and means shall have informed the house, or signified in writing to Mr. Speaker, whether the bill contain the several provisions required by the Standing Orders. Time between report and consideration of bill, &c.

216. No clause or amendment shall be offered in the House on the consideration of any private bill ordered to lie upon the table, nor any verbal amendment on the third reading of any private bill, unless the chairman of the committee of ways and means shall have informed the House, or signified in writing to Mr. Speaker, whether, in his opinion, such clause or amendment be such as ought or ought not to be entertained by the House, without referring the same to the select committee on Standing Orders. No clause or amendment on consideration of bill, or on third reading, to be offered, unless Chairman of Ways and Means shall have informed the House, &c.

217. When any clause or amendment is offered on the consideration of any private bill ordered to lie upon the table, or any verbal amendment on the third reading of any private bill, such clause or amendment shall be printed: And when any clause is proposed to be amended, it shall be printed in extenso, with every addition or substitution in different type, and the omissions therefrom included in brackets and underlined, unless the chairman of the committee of ways and means shall consider such printing to be unnecessary. The expense of printing such clauses or amendments, when offered by a party promoting or opposing a bill, shall be paid by such party. Clauses and amendments offered on consideration of bill, or verbal amendments on third reading, to be printed.

218. When any clause or amendment on the consideration of any private bill ordered to lie upon the table, or any verbal amendment on the third reading of any private bill, shall have been referred to the select committee on Standing Orders, no further proceeding shall be had until the report of the said select committee shall have been brought up. When referred, no further proceeding to be had until report of select committee on Standing Orders.

219. No amendments, not being merely verbal, shall be made to any private bill on the third reading. No amendments, except verbal, on third reading.

220. All amendments made by the House of Lords to any private bill shall be printed at the expense of the parties, and circulated with the votes, prior to such amendments being taken into consideration; and where any clause has been amended, it shall be printed in extenso, with every addition or substitution in different type, and the omissions therefrom included in brackets and underlined, unless the chairman of the committee of ways and means shall consider such printing to be unnecessary; and when any amendments are intended to be proposed to the Lords' amendments, such proposed amendments shall also be printed in like manner. Lords' amendments to be printed and circulated with the votes prior to consideration, &c.

221. Every private bill, after it has been read a third time, shall be printed fair, at the expense of the parties applying for the same. Bill to be printed fair after third reading.

222. In all cases where it is intended to appoint a committee to inspect the journals of the House of Lords with relation to any proceedings upon any private bill, previous notice thereof in writing shall be given by the agent to the clerks in the committee office. Notice of committee to inspect Lords' journals to be given to committee clerks.

223. No private bill shall pass through two stages on one and the same day without the special leave of the house. Bill not to proceed two stages on same day.

224. Except in cases of urgent and pressing necessity, no motion shall be made to dispense with any sessional or Standing Order of the House without due notice thereof. Notice to be given of motion for dispensation.

Order of proceedings in House on private business

225. Each day, so soon as the House shall be ready to proceed to private business, the clerk at the table shall read from the private business list, and from the list of bills presented for first reading (see Order 196), the titles of the several bills set down therein, according to their precedence, as arranged under the following heads:—

1. Consideration of Lords' amendments;
2. Third reading;
3. Consideration of bills ordered to lie upon the table;
4. Second reading;
5. First reading;

and if upon the reading of each such title as aforesaid, no motion shall be made with respect to such private bill, the further proceedings thereon shall be adjourned until the next sitting of the House.

Provisional order bills.

225*a*. All bills for confirming provisional orders or certificates shall be set down for consideration, each day, in a separate list, after the private business, and arranged in the same order as that prescribed by the Standing Orders for private bills.

Tolls and charges not in the nature of a tax.

226. This House will not insist on its privileges with regard to any clauses in private bills, or in bills to confirm any provisional orders or provisional certificates sent down from the House of Lords which refer to tolls and charges for services performed, and are not in the nature of a tax, or which refer to rates assessed and levied by local authorities for local purposes.

## Part V.

### THE ORDERS REGULATING THE PRACTICE IN THE PRIVATE BILL OFFICE.

Private Bill Office and registers.

227. Registers shall be kept in "The Private Bill Office," in which shall be entered by the clerks appointed for the business of that office, the name and place of residence of the Parliamentary agent in town, and of the agent in the country (if any) soliciting the bill; and all the proceedings, from the petition to the passing of the bill:—Such entries to specify, briefly, each day's proceeding before the examiners of petitions respectively, or in the House, or in any committee to which the bill may be referred; the day and hour on which the examiner or the committee is appointed to sit; the day and hour to which the proceedings before such examiners or committee may be adjourned, and the name of the clerk attending the same. Such registers to be open to public inspection daily in the said office.

Receipt of document to be acknowledged.

228. The receipt of all documents required by the Standing Orders of the House to be deposited in the Private Bill Office, shall be acknowledged by one of the clerks of the said office, upon the said documents, when deposited.

List of petitions to be kept.

229. A list of all petitions for private bills shall be kept in the Private Bill Office in the order of their deposit, according to such regulations as shall have been made by Mr. Speaker, which shall be called the "General List of Petitions," and each petition therein shall be numbered.

Memorials, when to be deposited.

230. All memorials complaining of non-compliance with the Standing Orders, in reference to petitions for bills deposited in the Private Bill Office on or before the 21st December, shall be deposited as follows:

If the same relate to petitions for bills numbered in the general list of petitions;

| From | | |
|---|---|---|
| 1 to 100 | They shall be deposited on or before . . | January 9th. |
| 101 to 200 | | " 16th. |
| 201 and upwards | | " 23rd. |

And in the case of any petitions for bills which may be deposited by leave of the House after the 21st December, such memorials shall be deposited three clear days before the day first appointed for the examination of the petition.

231. All memorials shall be deposited in the Private Bill Office before six of the clock in the evening of any day on which the House shall sit, and before two of the clock on any day on which the House shall not sit; and two copies of every such memorial shall be deposited for the use of the examiners before twelve of the clock on the following day. Deposit of memorials and copies thereof in Private Bill Office.

232. Every memorial complaining of non-compliance with the standing orders of the House in reference to petitions for additional provision in private bills, to bills brought from the House of Lords and to bills introduced by leave of this House in lieu of other bills which shall have been withdrawn, and to bills for confirming any provisional order or provisional certificate, shall be deposited in the Private Bill Office, together with two copies thereof, before twelve o'clock on the day preceding that appointed for the examination of any such petition or bill by the examiner; and the examiner shall be at liberty to entertain such memorial, although the party (if any) who may be specially affected by the non-compliance with the standing orders shall not have signed the same. Time for depositing memorials in certain cases, &c.

233. Every private bill, after it has been read the first time, shall be in the custody of the clerks of the Private Bill Office, until laid upon the table for the second reading; and when committed, shall be taken by the proper committee clerk into his charge, till reported. Custody of bills

234. Between the first and second reading of every private bill, the bill shall be examined, with all practicable despatch, by the clerks of the Private Bill Office, as to its conformity with the rules and standing orders of the House. Examination of bills.

235. Three clear days' notice in writing shall be given by the agent for the bill, to the clerks in the Private Bill Office, of the day proposed for the second reading of every private bill; and no such notice shall be given until the day after that on which the bill has been ordered to be read a second time. Notice of second reading.

236. Four clear days' notice in the case of opposed bills, and one clear days' notice in the case of unopposed and re-committed bills, shall be given to the clerks in the Private Bill Office by the clerk to the Committee of Selection, or by the clerk to the General Committee on Railway and Canal Bills, with regard to all bills referred to either of the said committees, and, with regard to bills not referred to either of the said committees, by the clerk to the committee to which any such bill is either referred or re-committed, of the day and hour appointed for the first meeting of the committee on every private bill, and notice shall be given in like manner of the postponement of the first meeting of the committee on every private bill on the day on which such postponement is made. Notice of committee.

237. A filled-up bill, signed by the agent for the bill, as proposed to be submitted to the committee on the bill, and in the case of a re-committed bill, a filled-up bill, as proposed to be submitted to the committee on re-committal, shall be deposited in the Private Bill Office two clear days before the meeting of the committee on every private bill; and a copy of the proposed amendments shall be furnished by the promoters to such parties petitioning against the bill as shall apply for it, one clear day before the meeting of the committee. Filled-up bill to be deposited in Private Bill Office.

238. Notice, in writing, shall be given by the committee clerk to the clerks in the Private Bill Office, of the day and hour to which each committee is adjourned. Notice of adjournment.

Notice of consideration of bill.

239. One clear day's notice, in writing, shall be given by the agent for the bill, to the clerks in the Private Bill Office, of the day proposed for the consideration of every private bill ordered to lie upon the table.

Bill as amended in committee to be delivered in.

240. The committee clerk, after the report is made out, shall deliver into the Private Bill Office a printed copy of the bill, with the written amendments made in the committee; in which bill all the clauses added by the committee shall be regularly marked in those parts of the bill wherein they are to be inserted.

Bill printed as amended, to be examined.

241. Every private bill printed as amended in committee, shall be examined by the clerks in the Private Bill Office, with the bill delivered in by the committee clerk, and the examining clerks shall endorse thereon a certificate of such examination.

Notice to be given of clauses, &c., on consideration of bill, or verbal amendments on third reading.

242. When it is intended to bring up any clause or to propose any amendment on the consideration of any private bill ordered to lie upon the table, or any verbal amendment on the third reading of any private bill, notice shall be given thereof, in the Private Bill Office, one clear day previous to such consideration or third reading.

Notice of third reading.

243. One clear day's notice, in writing, shall be given by the agent for the bill, to the clerks in the Private Bill Office, of the day proposed for the third reading of every private bill; and no such notice shall be given until the day after that on which the bill shall have been ordered to be read a third time.

Amendments on consideration of bill and third reading.

244. The amendments (if any) which are made on the consideration of any private bill ordered to lie upon the table, and on the third reading of any private bill, and also such amendments made by the House of Lords as shall have been agreed to by this House, shall be entered by one of the clerks in the Private Bill Office, upon the printed copy of the bill as amended in committee; which clerk shall sign the said copy so amended, in order to its being deposited and preserved in the said office.

Private bills sent to the Lords to be indorsed with certificate of examination.

245. Every private bill, after it has been printed fair shall, before the same is sent to the Lords, be examined by the clerks in the Private Bill Office with the bill as read a third time; and the examining clerks shall indorse thereon a certificate of such examination.

Notice of consideration of Lords' amendments.

246. When amendments made by the House of Lords to any private bill are to be taken into consideration, one clear day's notice shall be given thereof in the Private Bill Office, and if any amendments be intended to be proposed thereto, a copy of such amendments shall also be deposited, and notice given thereof, one clear day previous to the same being proposed to be taken into consideration; and no such notice shall be given until the day after that on which such bill shall have been returned from the House of Lords.

Time for delivering notices.

247. All notices required to be given or deposits to be made in the Private Bill Office shall be delivered in the said office before six of the clock in the evening of any day on which the House shall sit; and before two of the clock on any day on which the House shall not sit; and after any day on which the House shall have adjourned beyond the following day, no notice shall be given for the first day on which it shall again sit.

Daily lists of committees sitting.

248. The clerks in the Private Bill Office shall prepare, daily, lists of all private bills, and petitions for private bills upon which any committee or examiner is appointed to sit; specifying the hour of meeting, and the room where the committee or examiner shall sit; and the same shall be hung up in the lobby of the House.

Plans to be verified as Mr. Speaker shall direct.

249. Every plan, and book of reference thereto, which shall be certified by the Speaker of the House of Commons, in pursuance of any Act of Parliament, shall previously be ascertained, and verified in such manner as shall be deemed most advisable by the Speaker, to be exactly conformable

in all respects to the plan and book of reference which shall have been signed by the chairman of the committee upon the bill.

REGINALD F. D. PALGRAVE,
*Clerk to the House of Commons.*

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## APPENDIX (A.).

### FORM REFERRED TO IN STANDING ORDER No. 11.

No. .

SIR,—We beg to inform you, that application is intended to be made to Parliament in the ensuing session for "An act" [*here insert the title of the act*], and that the property mentioned in the annexed Schedule, or some part thereof, in which we understand you are interested as therein stated, will be required for the purposes of the said undertaking, according to the line thereof as at present laid out, or may be required to be taken under the usual powers of deviation to the extent of yards on either side of the said line which will be applied for in the said act.

We also beg to inform you, that a plan and section of the said undertaking, with a book of reference thereto, have been or will be deposited with the [*several clerks of the peace, or principal sheriff clerks, as the case may be*] of the counties of [*specify the counties in which the property is situate*], on or before the 30th of November, and that copies of so much of the said plan and section as relates to the [*parish or extra-parochial place, as the case may be*], in which your property is situate, with a book of reference thereto, have been or will be deposited for public inspection with the [*clerk of the said parish, clerk of the parish of adjoining to such extra-parochial place, session clerk, town clerk of the royal burgh, or the clerk of the union in which such parish is included, as the case may be*], on or before the 30th day of November, on which plans your property is designated by the numbers set forth in the annexed Schedule.

As we are required to report to Parliament whether you assent to or dissent from the proposed undertaking, or whether you are neuter in respect thereto, you will oblige us by writing your answer of assent, dissent or neutrality in the Form left herewith, and returning the same to us with your signature on or before the day of next; and if there should be any error or misdescription in the annexed Schedule, we shall feel obliged by your informing us thereof at your earliest convenience, that we may correct the same without delay.

We also beg to inform you that it is intended that the act shall provide to the effect, that, notwithstanding section 92 of the Lands Clauses Consolidation Act, 1845 [*or* section 90 of the Lands Clauses Consolidation (Scotland) Act, 1845], you may be required to sell and convey a part only of your property, numbered on the deposited plans.

We are, Sir,
Your most obedient servants,

To

*Note.*—If the application be forwarded by post, the words "Parliamentary Notice" are to be printed or written on the cover.

### SCHEDULE REFERRED TO IN THE FOREGOING NOTICE

Describing the Property therein alluded to.

| —— | Parish, Township, Townland, or extra-parochial place. | Number on Plans. | Description. | Owner. | Lessee. | Occupier. |
|---|---|---|---|---|---|---|
| Property on the line of the proposed work, or within the limits of the deviation intended to be applied for. | | | | | | |

# A TABLE OF THE FEES TO BE CHARGED AT THE HOUSE OF COMMONS.

## Fees to be Paid by the Promoters of a Private Bill.

| | £ | s. | d. |
|---|---|---|---|
| On the deposit of the petition, bill, plan, or any other document in the Private Bill Office | 5 | 0 | 0 |
| For every day on which the examiners shall inquire into the compliance with the Standing orders | 5 | 0 | 0 |

### *For Proceedings in the House.*

| | £ | s. | d. |
|---|---|---|---|
| On the presentation of the petition for the bill | 5 | 0 | 0 |
| On the first reading of the bill | 15 | 0 | 0 |
| On the second reading of the bill | 15 | 0 | 0 |
| On the report from the committee on the bill | 15 | 0 | 0 |
| On the third reading of the bill | 15 | 0 | 0 |

Bills from the Lords, commonly called Estate Bills, Divorce Bills, Naturalization Bills and Name Bills, to be charged only one-half of the preceding fees.

The preceding fees on the petition, first, second and third readings, and report, to be increased according to the money to be raised or expended under the authority of any bill for the execution of a work, in conformity with the following scale :—

If the sum be 100,000*l.* and under 500,000*l.*, twice the amount of such fees.

If the sum be 500,000*l.* and under 1,000,000*l.*, three times the amount of such fees.

If the sum be 1,000,000*l.* and above, four times the amount of such fees.

### *For Proceedings before any Committee or the Referees.*

| | £ | s. | d. |
|---|---|---|---|
| For every day on which the committee or the referees shall sit,— | | | |
| If the promoters of the bill appear by Counsel | 10 | 0 | 0 |
| If they appear without counsel | 5 | 0 | 0 |

## Fees to be Paid by the Opponents of a Private Bill.

| | £ | s. | d. |
|---|---|---|---|
| On the deposit of every memorial complaining that the standing orders have not been complied with | 1 | 0 | 0 |
| On the presentation or deposit of every petition against a private bill | 2 | 0 | 0 |

### *For Proceedings before the Examiners, or before any Committee, or the Referees.*

| | £ | s. | d. |
|---|---|---|---|
| For every day on which the examiners shall inquire into any memorial complaining of a non-compliance with the standing orders | 3 | 0 | 0 |
| For every day on which the petitioners appear before any committee or the Referees | 2 | 0 | 0 |

## General Fees.

| | £ | s. | d. |
|---|---|---|---|
| On every motion, order or proceeding in the house upon a private bill, petition, or matter not otherwise charged | 1 | 0 | 0 |
| For copies of all papers and documents, at the rate of 72 words in every folio,— | | | |
| If five folios or under | 0 | 2 | 6 |
| If above five folios, per folio | 0 | 0 | 6 |
| For the copy of a plan made by the parties | 1 | 0 | 0 |
| For the inspection of a plan, or of any document | 0 | 5 | 0 |
| For every plan or document certified by the Speaker pursuant to any act of Parliament | 10 | 0 | 0 |
| For every day on which any parties shall be heard by counsel at the bar, from each side | 10 | 0 | 0 |

| | £ | s. | d. |
|---|---|---|---|
| For every day on which a committee of the whole house shall sit on a private bill or matter | 6 | 0 | 0 |
| For serving any summons or order on a private bill or matter | 1 | 0 | 0 |
| For every order for the commitment or discharge of any person | 1 | 0 | 0 |
| For taking any person into custody for a breach of privilege or contempt | 5 | 0 | 0 |
| For taking any person into custody for any other cause | 2 | 0 | 0 |
| For every day on which any person shall be in custody | 1 | 0 | 0 |
| For riding charges, per mile | 0 | 0 | 6 |

FEES TO BE PAID ON THE TAXATION OF COSTS ON PRIVATE BILLS.

| | | | |
|---|---|---|---|
| For every application or reference to "The Taxing Officer of the House of Commons," for the taxation of a bill of costs | 1 | 0 | 0 |
| For every 100*l.* of any bill which shall be allowed by the taxing officer | 1 | 0 | 0 |
| On the deposit of every memorial complaining of a report of the taxing officer | 1 | 0 | 0 |
| For every certificate which shall be signed by the Speaker | 1 | 0 | 0 |
| For copies of any documents in the office of the taxing officer, per folio of 72 words | 0 | 1 | 0 |

That the same fees be paid in case the Speaker shall refer to the taxing officer any bill of costs, under the authority of an act of the sixth year of his late Majesty King George the Fourth, "To establish a taxation of costs on private bills in the House of Commons."

That every bill for the particular interest or benefit of any person or persons, whether the same be brought in upon petition, or motion, or report from a committee, or brought from the Lords, hath been and ought to be deemed a private bill within the meaning of the Table of Fees.

FEES TO BE TAKEN BY THE SHORT-HAND WRITER.

| | £ | s. | d. |
|---|---|---|---|
| For every day he shall attend | 2 | 2 | 0 |
| For the transcript of his notes, per folio of 72 words | 0 | 0 | 9 |

The preceding fees shall be charged, paid and received at such times, in such manner, and under such regulations, as the Speaker shall from time to time direct.

ARTHUR PEEL, *Speaker.*

*Mercurii*, 27° *die Julii*, 1864.

*Ordered*, That the said Table of Fees be a standing order of this House.

REGINALD F. D. PALGRAVE,
*Clerk to the House of Commons.*

# INDEX.

THE END.

BRADBURY, AGNEW, & CO., PRINTERS, WHITEFRIARS.